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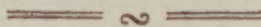
Ontario. Legislative assembly. [Committee]
Select committee on Administration of
Justice
Proceedings



ONTARIO

PROCEEDINGS
of the
SELECT COMMITTEE OF THE
ONTARIO LEGISLATIVE ASSEMBLY

APPOINTED TO ENQUIRE INTO AND REPORT
UPON CERTAIN MATTERS CONCERNING THE
ADMINISTRATION OF JUSTICE IN THE PROV-
INCE OF ONTARIO.



Vol. 25.

Monday, October 1, 1951.



T W E N T Y - F I F T H D A Y

Toronto, Ontario,
Monday, October 1st, 1951,
10.30 o'clock, a.m.

- - - - -

The further proceedings of this Committee reconvened pursuant to adjournment.

All parties present. (Excepting Mr. Villeneuve).

Same appearances as heretofore noted.


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THE CHAIRMAN: Shall we resume, gentlemen?
I suppose we will continue from where we left off with Mr. Wismer and Mr. McTague.

WILLIAM M. WISMER, a witness previously heard and now recalled, who having been already sworn continues his testimony as follows.

MR. JOLIFFE: Mr. Chairman, before we continue with Mr. Wismer, or complete his testimony, I wonder if we could give some attention for a moment to our agenda.

THE CHAIRMAN: Yes.



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MR. JOLLIFFE: As I recall it, we were going to complete Mr. Wismer's evidence and any other questions we might want to ask of Mr. McTague. I do not suppose they want to remain here indefinitely.

THE CHAIRMAN: I would not think so.

MR. JOLLIFFE: Then I think we were going to call on one of the investigators of the Securities Commission, Mr. Cox, and I believe also that Mr. Sutton wished to make some representation to the Committee.

I think it was understood four days this week.

THE CHAIRMAN: I think that was the arrangement.

EXHIBIT NO. 142: Questionnaire for applicant for membership in B.D.A. as produced and identified by the witness Wismer.

EXHIBIT NO. 143: Regulation "D" prepared for Broker-Dealers' Association for submission to S.E.C., as produced and identified by the witness Wismer.

MR. JOLLIFFE: Then the question arises if we are to hear other witnesses in connection with

the securities business, we should probably come to some conclusion about who they are to be so that there will be time to prepare to appear.

THE CHAIRMAN: Have you any others in mind, other than those you have mentioned?

MR. JOLLIFFE: Yes, I have some suggestions. I think all of the witnesses we have heard thus far in connection with this business, are what might be called "official witnesses"; they are witnesses from the Securities Commission or the Broker-Dealers' Association, with authority under both Acts, that is, the Security Act and the Broker-Dealers' Act.

It does seem to me we should call some other people. This is no reflection on the official witnesses; I think we are all grateful to them for having been so helpful. But I do think we should call some witnesses from amongst those who are in the business itself, because they also may be able to assist us. I have three or four suggestions to put before the Committee.

In the first place, it will be recalled that during the testimony by Mr. Lennox some of us were interested in the present status and function of middle-men, or underwriters, who have underwritten agreements which are passed on to somebody else. I do not think we really got to the bottom of that question. Since

the restrictions on the middle-men provided by the Act, it is not apparent -- certainly it was not apparent to me -- and I do not think Mr. Lennox explained the reason for the continued activities and even the existence of the middle-men in financing deals.

I think we ought call at once one of these middle-men to see what **it is** all about, and ask them to give an explanation of their place and function.

I have taken a recent issue, which is listed in the last bulletin of the Commission at page 15, as an issue accepted for filing. I notice literature about this issue also in one of the files produced by the Commission. This is the Western Potash Corporation, Limited, and the underwriter in that case is shown as one Harry Blackburn.

According to the file I examined, the issue was actually marketed by a registered broker-dealer, William A. Deering of 71 King St. W.

In this particular issue, there was an under-writing and option arrangement made for financing the Company's treasury between Blackburn and the Company, but the issue was actually being marketed to the public by a registered broker-dealer, William A. Deering.

THE CHAIRMAN: Blackburn is not a registered dealer?

MR. JOLLIFFE: No. He is an unknown figure.

BY THE CHAIRMAN:

Q. Mr. Wismer, is Blackburn a broker?

A Yes, there is a Blackburn.

Q This may be a different man altogether?

A I believe it is a different man.

MR. JOLLIFFE: This man's name is given as "Harry Blackburn".

I am not suggesting that the issue is not a legitimate one; I believe it is, but it is a recent case, and I propose we call Mr. Blackburn.

THE CHAIRMAN: What was the decision in that case?

MR. JOLLIFFE: Accepted for filing. This is a case where there was no disciplinary action taken. This is a case where the middle-man appears; the issue accepted for filing on June 22nd of this year, and since June 22nd, literature has been circulated by William A. Deering, which is all on file, and I, therefore, propose we invite Mr. Blackburn to appear before us and possibly he can explain the functions of a middle-man, such as himself. If he is not available, then perhaps we might invite Mr. Deering, the broker-dealer, who was purchasing the issue.

MR. WISMER: It runs in the back of my mind, Mr. Jolliffe -- although I would not be sure of this -- that this Mr. Blackburn is a Calgary man. That could be checked by getting a copy of the prospectus.

THE CHAIRMAN: Mr. Vickers (Secretary) can enquire as to the whereabouts of Mr. Blackburn, and in the meantime, I suppose we could always get Mr. Deering.

MR. JOLLIFFE: Yes, that is what I am suggesting, that if Mr. Blackburn is not available, we might invite Mr. Deering to attend.

MR. JAMES: Quite frankly, I have not been clear in my mind as to the usefulness of the middle-men.

MR. JOLLIFFE: That is right.

THE CHAIRMAN: That is the trouble with farm life. Under the rural way of life, they think that all men in the cities are middle-men.

MR. HOUCK: Is it your idea, if Mr. Deering should not see fit to accept our very kind and hospitable invitation, that he be subpoenaed?

MR. JOLLIFFE: Yes, that is a feature, but, in the first instance, I would like to issue an invitation.

THE CHAIRMAN: I think there is no doubt that

he would be willing to appear.

MR. DOWNER: No doubt about it.

THE CHAIRMAN: It is no reflection on Mr. Deering at all.

MR. DOWNER: None at all.

MR. JOLLIFFE: Is that acceptable to the Committee?

MR. HOUCK: I quite agree with Mr. Jolliffe. We want to get at the bottom of this thing. There are two sides to every story. I think people in the United States have resented the idea of Canadian stocks, and the way they are handled, and if we have one of the middle-men here, we might clear it up for all concerned.

MR. GRUMMETT: I think the general public would be inclined to criticize us if we only heard one side, that is, the evidence of officials of government, and others, such as broker-dealers. I think we would be rather leaving ourselves open to criticism if we did not attempt to obtain some information from those who are engaged in the business, and those who may be in some slight way under fire.

THE CHAIRMAN: Of course, I think we should make it clear that there is no suggestion that Mr. Deering

is in any way under fire.

MR. GRUMMETT: That is understood.

THE CHAIRMAN: We want information from him.

MR. JOLLIFFE: That is right.

MR. HOUCK: I think that should be made very definite, because it would be a smear on Mr. Deering's character, if we did not.

THE CHAIRMAN: This is the case where an issue in which he was involved has been apparently quite satisfactory to the Securities Commission, and there is no question about it whatsoever, on the face of the proceedings, at any rate.

MR. GRUMMETT: That is what I was referring to, Mr. Chairman, the fact that I have had some people say to me, "Why did we not call some of the men who have been referred to in connection with the betting investigation -- the gambling investigation". We referred to several men in that part of our investigation, and no one was called, and these people were very critical of that move.

MR. JOLLIFFE: Well, of course, our time was limited.

I might say in connection with this particular

issue -- and this may interest Mr. Janes -- I think if it can be made to succeed, it is a very welcome issue, because the starting point of this issue is a potash deposit in the West.

Now, potash is something of great value, particularly to agriculture --

THE CHAIRMAN: If we tie this up with agriculture, you mean it will be a great thing?

MR. JOLLIFFE: If we can develop our own supply of potash, and not have to rely on the American sources, or not have to bring in a ship-load from Europe, as we did a couple of years ago, but can get our own potash out of our own land, I think it would be a very welcome development.

MR. JANES: I will tell you a story about that sometime, about that fertilizer.

MR. JOLLIFFE: I am now discussing a chemical fertilizer. I refuse to discuss organic fertilizer at this time.

THE CHAIRMAN: Mr. Downer and I are the only independent people on this subject.

MR. JOLLIFFE: This matter relates to chemical fertilizer, and the issue is only listed in

the current bulletin. I believe this (indicating) is the latest one; Mr. Lennox just sent it down to me a little while ago, and the matter is current, so possibly we can get some information in this way.

Is that acceptable to the Committee?

THE CHAIRMAN: Yes.

MR. JOLLIFFE: Now, I have another suggestion to make, and to put before the Committee. But before doing that, I should say there are one or two leading people who have taken a leading part in this business in recent years, and whether or not they belong to the Board of the present Broker-Dealers' Association, I do not think makes very much difference. The important thing is that they have taken a leading and active part in the business, and I propose we should invite to appear before this Committee, at the earliest convenient date, Mr. Louis Kodesky, whose address, as far as I know, is 469 Spadina Road, Toronto. I think that makes him a constituent of mine.

Secondly, Mr. Frank Kaftell, who has an office at 222 Simcoe Street, Toronto.

Now, these are men who played an important part in the financing of mining enterprises in recent years, and I propose they should be invited to appear

before the Committee.

MR. JAMES: Have you had any requests from anybody to appear before the Committee?

THE CHAIRMAN: No, not outside of the ones we have already mentioned.

MR. DOWNER: Why did you pick out these two gentlemen, particularly?

MR. JOLLIFFE: They have been very active in the business, and I believe Mr. Kodesky was on the Board.

THE WITNESS: Yes, he was on the first Board of Governors.

MR. JOLLIFFE: I think we should have someone who has played an active and successful part in the thing. I think these two gentlemen are amongst those who have. We have to start somewhere.

MR. McTAGUE: You understand, Mr. Jolliffe, that neither one of these gentlemen, is a member of the Broker-Dealers' Association?

MR. JOLLIFFE: That is my understanding, yes.

MR. HOUCK: Do you make that as a motion?

MR. JOLLIFFE: Yes, if it is proper procedure, I would so move.

MR. HOUCK: I second that motion.

Motion agreed to.

MR. JOLLIFFE: That is all I have to suggest at the moment. Thank you.

THE CHAIRMAN: Then the Secretary (Mr. Vickers) will get in touch with these people. If they are in the city, they should not be very much delayed.

THE SECRETARY: By to-morrow, possibly?

THE CHAIRMAN: Yes, if possible, and if they are available.

MR. DOWNER: Mr. Chairman, the evidence before this Committee has become very voluminous.

MR. JOLLIFFE: I should say it has.

MR. DOWNER: We have to stack it now on the floor. If it keeps on going up, it will be to the ceiling.

MR. GRUMMETT: I would say we have no control over that.

MR. DOWNER: If we are going to bring in a report, we will have to go through all this evidence again.

MR. JOLLIFFE: And the hon. Attorney General

(Mr. Porter) will draft the report.

THE CHAIRMAN: After I know what should go into it. What do you think I have been doing for the last few months? Do you think I have been drafting a report? The Committee has to make a report.

MR. JOLLIFFE: Somebody has to draft it.

MR. DOWNER: How far are we going to go, because this thing has to be wound up.

THE CHAIRMAN: Have we enough material to digest now, after we hear from these people?

MR. DOWNER: I think it would be rather foolish to keep on going without doing something with what we already have.

MR. GRUMMETT: I do not know that we could prepare a report on what we have.

THE CHAIRMAN: Mr. Downer's suggestion was to go over some of this great mass of evidence we already have, and see, roughly, what it amounts to in general, and then decide on what further evidence we want.

MR. JANES: It is possible we might want some more information. I agree with you.

MR. GRUMMETT: We could also be hearing some

others, and could be doing something in the way of taking different sections, and perhaps getting a summary made up of the evidence under different headings.

THE CHAIRMAN: I have had a sort of running index kept up, so I can refer to it under the different headings, and we can refer to it conveniently when the time comes to deliberate, to some extent, on what we have heard.

MR. GRUMMETT: On this portion of the evidence which we have already. The whole thing is hanging fire at the moment.

I think that is a good suggestion, Mr. Downer, because we are liable to forget the first portion of it.

MR. DOWNER: That is right. I have already forgotten part of that which we have heard.

THE CHAIRMAN: Is that agreeable to the Committee?

MR. JOLLIFFE: Yes, I think so.

THE CHAIRMAN: We will see if these men are available and can come this week, and we can hear them first. If they are not available, there may be somebody else who we would want to substitute, in the meantime.

MR. JOLLIFFE: We have Mr. Wismer, Mr. McTague, Mr. Cox and Mr. Sutton.

MR. HOUCK: Has the Law Society prepared a brief to present to us?

THE CLERK: I asked about it, and they requested to know if there was any urgency, and if so, they might be notified right away, so they could hurry it up. I think they are circularizing the county associations, and have heard from quite a number of them.

I was talking to the Secretary of the Law Society on Thursday.

MR. DOWNER: I do not think there is any urgency about that matter. It is a question of having things in order.

MR. GRUMMETT: Yes, and to be in a position where we will not be caught behind, when we should be making a report.

MR. HOUCK: Are you preparing a sermon on this, Mr. Downer, and you want us to draw it up for you?

MR. DOWNER: There will be a whole series of them. I think we can go through until Spring on this matter.

THE CHAIRMAN: Shall we proceed with Mr. Wismer?

MR. JOLLIFFE: Yes.

BY MR. McTAGUE:

Q. Mr. Wismer, you were prepared to subject yourself to questions which I suppose the Committee may wish to ask, upon what you propose to adduce?

A. Yes.

Q. Perhaps there are one or two tag ends with which we might deal, and one of them has to do with the reference made the other day to some literature, in which the name of a mining engineer, Mr. Ali Ashghar Hassan was mentioned, as some other matter was brought up as the validity of calling him a "famous geologist", or something of that kind. Have you looked into that?

A I contacted the broker-dealer in question, and he sent me a letter dated September 13th, 1951, in which he said:

" We are enclosing for your information, a clipping which appeared in the Toronto Globe and Mail dated September 7, 1948, regarding Ali Ashghar Hassan, the text of which unquestionably identifies him as a mining engineer of note.

" We have been informed that if further confirmation of Mr. Hassan is necessary, that information will be forthcoming at your request.

" We would appreciate the return of the enclosed clipping in order to complete the files from where it was obtained".

Q. Will you read the clipping?

A. This clipping is taken from the Globe and Mail of September 7th, 1948, and is headed, "Famous Geologist Had Faith in Temagami Area's Future".

The clipping reads as follows:

" The death of Ali Ashghar Hassan, geologist and mining engineer, at East Orange, N.J., last June, marks the end of a distinguished professional career. Mr. Hassan had great faith in the Temagami mining area as a potential producing camp, provided development went to depth, as was shown in a similar formation in the High Sierras of California, where mispickel ores were successfully treated. At the time of his death he was actively interested in the southwestern areas of the United States.

The following biographical information was

published by Robert H. Malcolm in the Engineering and Mining Journal.

Ali Hassan was born in Constantinople (Istanbul) Turkey. His father was interested in mines; and after study with private tutors he was sent to various polytechnics and to universities in Vienna, Leopole, and Cracow. On the death of his parents he inherited the means to establish a scientific laboratory and library in Vienna, where he continued his academic and scientific education. His geological reconnaissances were first conducted in the Transylvanian Alps and the Carpathian Mountains. He served in the personal guard of Emperor Franz Joseph, as a lieutenant, and as a captain in the Turko-Russian War.

In his early twenties Hassan established a consulting office in London, in Finsbury Sq., where he represented many important mining enterprises and devoted much time to scientific research in rare minerals. He secured from Brazil a large mineral concession, which he sold to his clients; made examinations for petroleum and other minerals in the Balkans, and in the course of geological work he examined properties and areas in all parts

of the world except China, Japan, and Australia.

From headquarters established at Perm, he explored 20,000 square miles of Eastern Russia, and tried, without success, to induce the Czarist-Russian officials to drill for petroleum and to mine for potash. He later utilized his study in the Permian region to good advantage in the discovery of potash and petroleum in similar geological formations in Texas.

In 1893, Hassan came to the United States, and, being impressed with the mineral resources of the country and of Canada, he decided to make explorations in these countries on his own initiative. His name is identified with many famous American camps -- Tonopah, Goldfield, Bullfrog, Manhattan, Ely, Searchlight, Silver Peak, and with other mining camps of Arizona, Nevada, California, Mexico, New Mexico, and of Canada, where he wrote the first geological reports on the district embracing Hollinger and Dome. He was associated, also, in 1930 and 1931, with investigations which resulted in the development of the chrome mining in Montana.

He was a member of many scientific associations, including the American Association for the

Advancement of Science, the Scientific League of America, and the Astronomical Society of the Pacific".

BY MR. McTAGUE:

Q. Just before the adjournment, the last day we were here, mention was made of some disciplinary cases, and I think Junior Golds was referred to, and a former member of the Board of Governors of B.D.A., who later got into some difficulty. Perhaps you would tell the Committee the story about that, as far as you know it.

A. Yes. That particular member of the Board of Governors represented the associate member group in the Association.

Q He was a salesman, yes, and he decided to become a broker-dealer, and, consequently, he resigned as a member of the Board, and became president of the Junior Golds Securities Corp. Ltd.

BY THE CHAIRMAN:

Q. What is his name?

A Mr. Sidney C. Davidge.

Subsequently he got into difficulties with the Ontario Securities Commission, particularly over a sale which was made in one of the northwestern United States,

and in order to permit him to continue to trade in securities for a period time until he was able to wind up some outstanding accounts, the assistant secretary from the Association at the time -- who is now dead -- a gentleman by the name of Mr. Peter Stephenson, went in there and looked after the affair. When they were concluded to the satisfaction of the Commission and the Association, the business came to an end.

BY MR. JOLLIFFE:

Q. Mr. Stephenson had previously been with the Commission?

A He had been with the Commission as an investigator, and prior to that time, he was associated with Greenshields and Company of Montreal, for a period of some twenty years -- I think six years as a partner.

MR. McTAGUE: Yes, he was a partner of Greenshields.

BY MR. McTAGUE:

Q. Then, are there any other matters now with which you wish to deal in chief?

A We have one bulletin which has been issued since the last time I appeared here. If the Committee wishes, I would like to hand out copies of the bulletin and the supplement, so as to bring you up to date.

It is Bulletin No. 26, dated September 17th.

MR. JOLLIFFE: You were good enough to send me one of those. Is there a supplement, too?

THE WITNESS: Yes, there is a supplement. Did you receive that?

MR. JOLLIFFE: No.

EXHIBIT NO. 144: Bulletin and Supplement as produced and Identified by the Witness Wisner.

BY MR. JOLLIFFE:

Q. This case No. 1 in the supplement; is that the same case which was reported to us by Mr. Lennox a little over a month ago?

A Yes, I believe so. It was in connection with Mr. Kauffman.

Q An American salesman?

A Yes.

Q And No. 2, I take it, is the same case?

A Yes, except those two associate members have not been re-instated. They have not shown to the satisfaction of the Board that they had no knowledge of the matter.

BY MR. GRUMMETT:

Q. They were, in effect, salesmen who were

working with and in close contact with Kauffman?

A That has not been established yet, Mr. Grummett. There is a possibility that one of them never knew that Mr. Kauffman was in the office at any time.

I suppose the Ontario Securities Commission is also looking into this matter further.

BY MR. HOUCK:

Q. Mr. Wismer, you have set out twelve different cases here; are these rather the exception than the rule, or do you run into this sort of thing all the time?

A It has been fairly constant, Mr. Houck.

BY MR. JANES:

Q. Have the members submitted a satisfactory insurance?

A There are thirty-one members of the Association who have not obtained their broker blanket bonds, and I know that there are several of those in the process at least, and, consequently, it looks as if we would have to give them seven days grace.

BY MR. JOLLIFFE:

Q. To-day was the deadline?

A Yes, to-day was the deadline, but some of them left it until the last minute, and the insurance companies' offices have been a little bogged down in

some cases, especially in connection with their investigations.

BY MR. HOUCK:

Q. Regarding No. 7; what is the required time in connection with a surprise audit?

A If an audit is at June 30th, they must have their financial statement in by the 20th of July. They have approximately three weeks to get the statements in.

BY MR. Mc TAGUE:

Q. Now, are there any other matters you care to deal with?

A No.

BY MR. JOLLIFFE:

Q. There is a matter which you might be able to explain to us. I do not recall that we asked Mr. Lennox any questions about this at all.

In the last bulletin of the Commission, registered brokers and others are listed and following the list of broker-dealers we find:

"The following are registered as sub-broker-dealers"
And there are three names.

Perhaps you could explain to us, to save us some time and trouble, the status of a "sub-broker-dealer".

A Under the definition in the Securities Act, a sub-

broker-dealer is one who trades in securities for a part of his time, or who has retired from active business, and wants to trade in securities in that capacity.

BY MR. JAMES:

Q. Does he come under the same regulations as a full-time broker-dealer?

A No, because they are not required to be members of the Broker-Dealers' Association. These men come in voluntarily, if they wish, under our regulations.

Q The point I was coming at was this; have you any control or authority over these men?

A No.

BY MR. JOLLIFFE:

Q. In fact, do these three men belong to your Association?

A No, none of them do.

BY MR. McTAGUE:

Q. None of them?

I might, by way of explanation there, say this; that the type of operator who is referred to and defined as a "sub-broker-dealer" was largely composed of men like retired bank managers, and that sort of thing, who act in the sale of securities, not only for a broker-dealer,

but for an investment dealer.

Prior to that definition being introduced, and they getting some status, they were taken on as salesmen, and that sort of thing, and were registered as salesmen in places, for instance, where their employers would not have branch offices.

It was always a little bit difficult to regularize that sort of thing, and that definition was brought in, and that class was recognized.

There are very few of them, and they are mostly retired bank managers, and perhaps people who have been in the insurance business, and that sort of thing.

BY MR. JOLLIFFE:

Q. Can you say briefly in what way they are rated differently from broker-dealers?

MR. McTAGUE: They have not their own offices at all. They really work in a sub-position for somebody else, usually an investment dealer.

THE WITNESS: They are correspondents.

MR. McTAGUE: That is what they really are -- correspondents.

MR. JOLLIFFE: They do not market issues themselves?

MR. McTAGUE: No. There are some of them, I think, who are able to act as principals, but that I think, in practice, is practically confined to investment dealers.

They may buy government bonds, and make a slight gain on them, or they may sell on a commission basis. They were never in the Act, before 1947, and they were brought in in order to give the Commission some jurisdiction with respect to that type of operation.

BY MR. JOLLIFFE:

Q. Have there been any suspensions or cancellations from the membership of your Association since our last meeting, which I believe, ended on the 24th of August of this year?

A There has been one cancellation by the Ontario Securities Commission, which was followed by expulsion from the Association. There may have been one suspension. (Referring to document) Yes, there has been one suspension.

Q Are you in a position to tell us to-day what the numbers of your membership now are?

A It would be 158.

Q. That is the total?

A Yes.

Q. Including the 31 who have not yet filed bonds?

A. Yes.

BY MR. HOUCK:

Q. Do you think, Mr. Wismer, considering the work of the Broker-Dealers' Association, and considering the work of the Ontario Securities Commission, that the general feeling of public opinion is more favourable now than it was a year ago, toward stock dealing?

A Public opinion, I would say definitely "yes", but not public opinion in the United States.

Q Why do you say not in the United States?

A Largely because of that series of articles which appeared in the St. Louis Star-Times which, of course, were syndicated out to some eleven hundred American newspapers, and that has been followed up, off and on, by other very critical articles, from time to time.

BY THE CHAIRMAN:

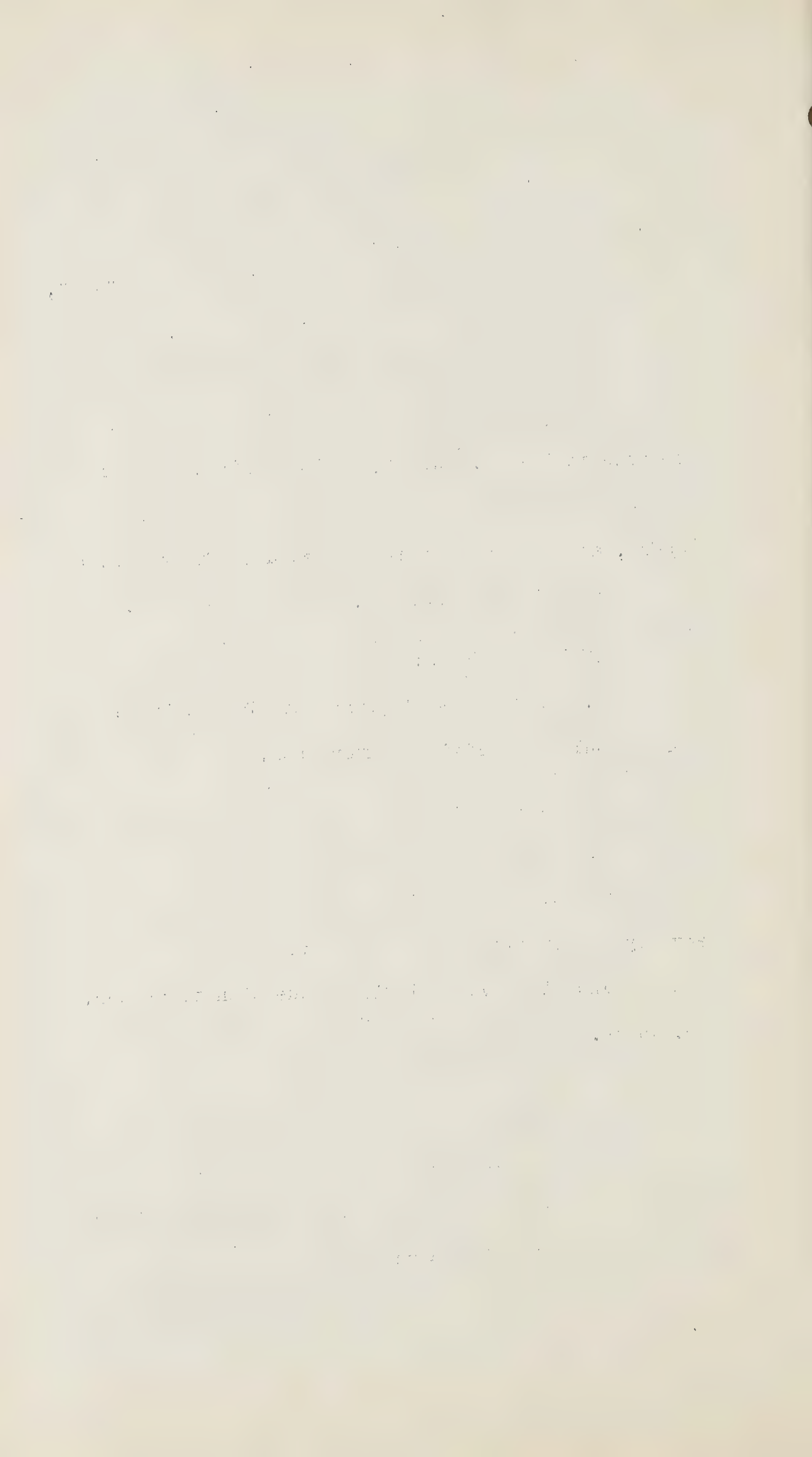
Q. Is that still going on? Do you know?

A Only to a limited extent now.

BY MR. JAMES:

Q. These troubles are all caused by a few dealers who are not willing to play the game? Is there any way to compell them to do that?

A That is a very difficult question to answer, Mr. Janes.



Q. It is too bad to allow a few law breakers to --

MR. DOWNER: Affect the whole business.

BY MR. JAMES:

Q. --to ruin our credit with the American public.

BY MR. JOLLIFFE.

Q. Have there been any new applications for membership, Mr. Wismer, since the 30th of August?

A No.

Q. That means in the first nine months of the year you have had very few new entrants in the business?

A That is correct.

Q. Only one or two, if I remember correctly.

A. In the first nine months of the year, I would say, about five.

Q. About five?

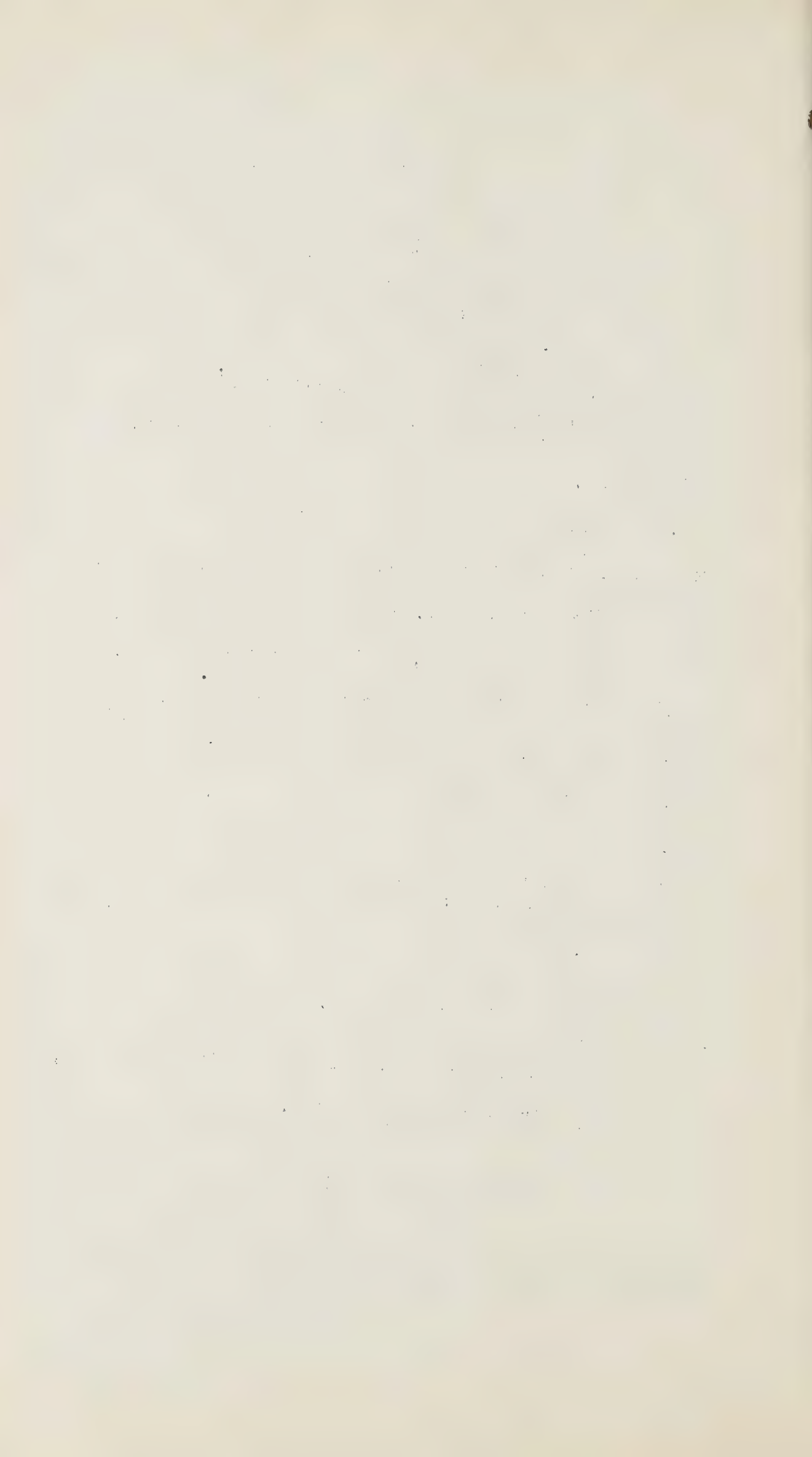
A. Yes.

BY MR. JAMES:

Q. Have there been any applications refused?

MR. JOLLIFFE: Oh, yes.

THE WITNESS: Yes. Since the first of March, eight out of ten have been refused.



BY MR. JOLLIFFE:

Q. And can you say of the five who entered the business in the first nine months of this year, how many are still in the business?

A. All of them.

Q. They are all still in the business?

A. Of that five, who became members.

Q. Then the broker-dealer whose license was cancelled by the Commission last Spring on his first issue, must have been licensed in 1950?

A. Yes.

MR. JOLLIFFE: I do not think of any further questions, Mr. Chairman.

THE CHAIRMAN: Any further questions, gentlemen?
(No response).

Thank you, Mr. Wismer.

THE CHAIRMAN: Shall we adjourn now for five minutes?

MR. JOLLIFFE: Before we adjourn, I think we all should thank Mr. Wismer for his testimony.

THE CHAIRMAN: Yes. We are all indebted to Mr. Wismer for his very complete statements.

Then we have Mr. Sutton, whom we will hear after the adjournment.

We will recess now for five minutes.

---Whereupon a short recess was had.

- - - - -

---Upon Resuming.

THE CHAIRMAN: Are we ready to proceed? Mr. Sutton, will you please be sworn.

THOMAS ARCHIBALD SUTTON,

A witness being called and duly sworn, testifies as follows:

BY THE CHAIRMAN:

Q Mr. Sutton, I believe you have some representations you would like to make before this Committee?

A Yes, Mr. Chairman.

Q Perhaps you could explain just what position you occupy, and if you are representing a group of people, you might first of all explain who they are?

A Mr. Chairman, I think that in this matter, you want to know who I am, and what I was, and where I am going. In other words, it might possibly be a case of "whence I came, and whither wending."

The organization of stockholders, insofar as this movement is concerned --

BY MR. HOUGH:

Q Mr. Sutton, is your office in Toronto?

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A Yes.

Q Where?

A At 1009 Lumsden Building.

The organization started with the alleged expropriation of Eldorado, on a Saturday morning on December of 1944.

Following that expropriation, the stockholders of Eldorado met in Toronto, Hamilton, New Haven, Connecticut, and in various places, and appointed me as the Chairman of the Committees to further their cause, and Mr. George Scrobie, of Hamilton, as the Secretary-Treasurer.

We followed through with representations to the Rt.-Hon. Prime Minister, Mr. King, to Rt.-Hon. Mr. Howe, and the Hon. Colin Campbell, and many others in Canada, and President Roosevelt, and Mr. Cordell Hull, and one of the United States senators, and finally by contacting all members of the House of Commons in Ottawa, and all senators in the United States.

Q What is the strength of your membership?

A I will just come to that in a few moments, if you do not mind, Mr. Houck.

The people who talked to us, and the many people who wrote to us, began to broaden the subject.

They began to stray from the expropriation of Eldorado, and bring up, and to obtain the elimination of double taxation on dividends, and to place behind management his right to hire and fire, and promote, so that the stockholders' investments would be protected.

They broadened it up on the one hand, and, on the other hand, we saw that the six thousand stockholders in Eldorado could not constitute a political pressure bloc which could ever obtain any justice in the matter for them, and consequently, and subsequently to that, a group was formed, the Shareholders' Institute, which mulled around with references -- I think the first was made to the Royal Commission investigating the price of milk, and another to a Royal Commission investigating railroad freight rates.

Then we decided to broaden out further, and we put out a very limited appeal to stockholders, just to people whom we knew primarily, to get representation throughout Canada, and, to some extent, throughout the United States.

As a result of that, we obtained members in, as I recall it, over thirty states in the United States, and definitely from nine provinces in Canada.

We have now made a general appeal for membership. I think our members are under 700 and over 600;

at least, let me say that those are the number of people.

It is intended with presentation of these representations to this Committee, that the American Stockholders' Union will go out of existence, and in its place will be formed an Ownership League.

We further recognize that to preserve the rights of ownership, we have to work in with owners, other than those who own stock.

Our mutual problems in the stock field -- there are 220,000 names of people who own the producers. Taking duplications into account, we feel that there are probably less than 120,000 individuals who own the producers, and I believe that there are a million and one-half people who own the prospects, who are just as much concerned. Certainly we believe there are over one million.

BY MR. GRUMMETT:

Q How many of those are members of your organization?

A They have not been approached. We will approach that subject in a minute, Mr. Grummett.

The complaint of the people who own gold mine shares is this; they are delivering one-thirty-fifth of

an ounce of gold to the Federal Government, which represents one hundred cents on the dollar, and for that one-thirty-fifth of an ounce, they are being given a "phoney" dollar, which represents fifty-one or fifty-two cents.

There are no differences in the complaints of the grain growers. They are compelled by the Federal Government to deliver their grain, which represents real wealth.

And there is no difference insofar as the dairy farmers are concerned, or insofar as the landlords are concerned.

So the aim now upon which we intend to embark immediately, is to organize all forms of ownership for the protection of ownership. That is the transition stage, in which we are.

We have had the co-operation of between 600 and 700, who have actually signed in with us, and many others who are willing to go along with us.

BY MR. HOUCK:

Q You mean by that, Mr. Sutton, that your old organization is going out of existence, and you will form a new organization?

A Yes. We definitely will transfer the member-

ships which we have into the new Ownership League.

Q When will that take place?

A As soon as you let me get away. Just that quick.

It will be spear-headed by stock-holders because, although apparently they have to be organized, they are not congregated in a community, such as farmers, and they do not rub shoulders in the workshops, as the trade unionists do, and we know all about the fact of what difficulty it creates to have the terrific amount of duplication, and while a person has bought five or maybe ten stocks in different companies, there would be that duplication in nearly every case, because that person has bought those stocks through one securities salesman, and the securities salesman is the man whom we now intend to have go out and recruit our membership. We intend to have the securities salesmen go out and organize our membership. It is their duty. They should follow through with the services, after they have pocketed their commissions, exactly as the salesmen do with an automobile, or a washing machine, or anything else. They should not sell securities to persons and then leave the securities to the more or less tender mercies of political blocs, who may undermine the value of those securities, and perhaps in

several cases, seek to destroy them entirely.

BY MR. HOUCK:

Q Have the salesmen agreed to do that?

A This will be entirely voluntary on their part. Some are, of course, afraid. Whether they are agreeable or not, in the main, will depend on the attitude of the people who sit around this table, and if there is any reason to be given why they are not free men, who are able to go out and further the cause of their clients, let us have it.

BY MR. JOLLIFFE:

Q Mr. Sutton, I think you are assuming a great deal. As far as I know, no member of this Committee is the least bit interested in what a salesman does, or what interests him, as long as he remains within the law.

MR. GRUMMETT: That is right.

A I trust it is not in the minds of this Committee that he cannot belong to the Holy Name Society, or an Orange Society. We feel that is quite all right. We feel it is time these people should be organized, and we should organize them in the best way

BY MR. GRUMMETT:

Q You do not expect us to do it, do you?

A Well, I hope you would not succeed.

MR. JOLLIFFE: Do not assume too much. Just make your case, without making assumptions or expressing suppositions, of what we may think.

THE WITNESS: Mr. Chairman, are there any further questions now?

BY THE CHAIRMAN:

Q I understood you had a brief to present?

A That is right.

Q I think you may as well get along with that.

A In the matter of presenting the brief, Mr. Chairman, I had hoped that I might add a clause on "ownership" which I omitted from this brief. It was in regard to the cost to the prospectors. I had hoped that Mrs. McMillan, or some other members of the Prospectors' Association, would have presented their viewpoint. May I ask if that will be done?

Q We have had no communication from them. It is up to them to ask us, if they want to see it.

A I would hesitate to step into a ridiculous

situation.

THE CHAIRMAN: I think you might better proceed with your brief.

THE WITNESS: Yes. Another thing, Mr. Chairman; the brief is more or less in continuity; would you wish me to read through this? And there are things in detail on which I will give you a little further information.

Q That is up to you. You present your brief in any way you like.

THE WITNESS: And the questions will be asked afterwards?

THE CHAIRMAN: That depends on the points raised. We will be very much interested in hearing the brief.

BY MR. HOUCK:

Q Before you start reading, how long have you been working on this thing?

A As I said, it was on a Saturday morning in December, 1944, when the Eldorado stock was expropriated.

Q Seven years ago?

A Yes, seven years, seven long years.

Q Have you a copy of the brief for every one of the members?

A I am afraid I have not. I have given several out.

BY MR. HOLLIFFE:

Q Mr. Sutton, is this (indicating) the same brief I have seen? You were good enough to give me a copy of your brief a month or two ago. Is this the same document?

A I gave it to Mr. Grummett.

Q I think you gave me one, too.

A Did I? Then I think this would be the same.

BY MR. HOUCK:

Q You gave me one, too. Is that the brief you are going to read?

A Yes.

"Mr. Chairman and Members of the Committee:

At this time of preparing this brief, Chief Securities Commissioner Mr. Lennox has given evidence to your Committee over a period of six days or more, and his predecessor in office, Mr. McTague, has testified for half a day.

It seems unfortunate that the advantage

was not foreseen of your Committee engaging the services of someone like Mr. Sidney Norman as a consultant. Such a man, with a thorough knowledge of mining and marketing in all phases and stages, and being conversant with the securities laws in all provinces and states, could have saved a very great amount of your Committee's time. More important, he could have informed you of the basic reasoning behind certain present marketing practices and other matters which your Committee have discussed and in which, in the absence of an expert witness, the danger is perceived that you may have arrived at erroneous conclusions drawn from the superficial knowledge available to you. Two instances that occur to us are those of price spreads and the release of stock from escrow.

No criticism is implied in the foregoing toward the Chief Commissioner regarding this matter, nor to your Committee. It is not expected that either Mr. Lennox or the members of your Committee would possess the diversified knowledge in all fields of the subject being dealt with. We recognize that this enquiry is being

held to give the fullest information possible to the Committee. The danger that this may not be obtained was raised by Mr. Houck in asking Mr. Lennox if he thought that licensees of the Securities Commission would feel free to appear before your Committee and give evidence. Frankly, we do not think they would, and, as in the case of Mr. Lennox and the members of your Committee, it cannot be expected that the legal representatives of the Broker-Dealers' Association should be possessed of the detailed information required. In the circumstances, we suggest that measures should be considered which would allow broker-dealers to make their contentions known to you without fear. It is further suggested that efforts should be made to obtain the prospectors' representations.

The hearings as they are presently being conducted before the Committee are conducive to a presentation of testimony substantially favouring the present Securities Act and the prevailing methods of its enforcement. Possibly these constitute the best methods of controlling the sale of securities that could be devised.

On the other hand, they may be a source of hurt and harm to the investor and to the public at large. It is certain that the act and its enforcement affect in a profound manner the degree of development of our natural resources, and also occasion monetary losses of magnitude to a large number of investors.

No question is raised regarding the motive of the legislators who framed the Act or the intent of the Commissioners who enforce it. The desire to protect investors in particular and the public at large from exploitation by unscrupulous stock-brokers and stock promoters is entirely admirable and justifiable. The prime question for the Committee to consider is whether the Act and its enforcement enure to a greater public saving than a public loss; of whether it is a force for good or a force for evil. A breakdown of such a question splits the subject into two factors; one, its effect on the development of Canada's natural resources, and, two, the loss caused to investors through punitive

acts of the Commission against brokers and promoters.

Before examining this phase in greater detail, it is indicated that a reason for changes in the Act and its enforcement during the past six years or so should first be reviewed. In this period, a great amount of publicity has been given by certain Canadian and U.S. newspapers covering alleged widespread victimizing of the investing public by Toronto stockbrokers. No evidence has been presented to the Committee which would indicate that the investing public, in anything except the most negligible proportion, has of itself made any protest in the matter.

In his research work in the stockholder field during these past six years, this organizer has personally interviewed and corresponded with a very great number of shareholders. Various issues have been raised by these shareholders, such as double taxation of dividends, the low dividend rates paid in ratio to earnings, the loss of ownership rights to labour unions, etc., but not in

one single instance has a shareholder made any reference to racketeering by stock-brokers, although the subject is continually kept in prominence by certain sections of the Press.

It would therefore appear possible that a superficial high-pressure publicity campaign may well have influenced changes in the Securities Act and in its more stringent enforcement. From among the millions who have bought Canadian securities during the past six years, it would be enlightening to ascertain the approximate number of individual complaints which have been received, either by the Securities Commission, the S.E.C., or by that section of the Press which has interested itself in the matter.

It is a moot question whether or not the Securities Act as at present administered has general public support. It is not likely that the public is sufficiently informed to be able to judge for itself. It cannot have escaped the Committee's notice that, at these hearings, in a city which houses tens of thousands of stockholders, not a single

individual stockholder appears interested enough to attend and follow the proceedings. Nor is it likely that the Securities Commission could or would estimate the proportion of speculative buyers who, on the one hand, are influenced in their purchase of shares by property development chances, and, on the other hand, by the expectation of a market play. However, no board-room habitue could deny the tremendous public participation which is always evident in fast-moving promotional issues.

With this in the background, a return can now be made to the question of whether or not the Securities Act is a medium of saving or of loss to the investing public. It would be useless to elaborate further on the good it is supposed to do; that has already been fully stated. What, then, of its harmful effects, about which nothing has been heard? These would appear to fall into two categories; a retarding of the development of our natural resources, and the occasioning of loss to the investor.

That mining promotional activity has fallen

to a low ebb is an undeniable fact. Casually, this might be attributed to the poor economic status now occupied by gold, but this does not explain the lack of endeavour in searching for and promoting the development of base metals, when copper, zinc, lead, etc., are in demand at the highest prices in history. At least in part, the severe regulations of the Securities Act must be considered in relation to the retarded conditions in the mining development field, bearing in mind the plentitude of money possessed by those who are usually willing to speculate. Here, the point should be studied of whether the public is hesitant to absorb the offerings of promoters or whether promoters feel that they are allowed a reasonable latitude of personal and financial safety in making offerings in a manner acceptable to the public.

Turning now to the effect of the Securities Act on the speculative investor. True it is that, more or less successfully, the Securities Commission attempts to screen stock promoters

and eliminate the unscrupulous and dishonest element. This procedure, at the best, can be little more than a matter of guesswork. That is established by the record of the Commission itself through its own admissions of its inability to prevent the use of 'fronts' in the promotion of security sales.

A problem which must constantly be met is this; when the Securities Commission discovers a violation of the security laws made by a stock-broker, the cancelling of the license of such a broker is likely. With such a cancellation go the hopes -- and, indeed, the chances -- of the broker's hundreds of clients ever saving any part of the investments they have made with him. The company whose shares they have bought now lacks a financial sponsor; an amount of the vendor stock usually apportioned to the stock promoter has been absorbed; the low-priced options, from which a relatively high ratio of profit is expected, have been taken up.

Nobody wants an orphan of this description. No other promoter will adopt it. It matters

not whether an unscrupulous promoter has slipped through the security commission's screen or if a good-intentioned promoter has unconsciously erred; the results are the same -- a complete loss to hundreds of people of the hundreds of thousands of dollars they have invested. The act of the Commission in cancelling the license of the offending broker is undeniably the instrument which is directly responsible for such a loss. The aggregate losses caused to the public in this manner during the past six years have run into many millions of dollars.

The Commission's own records, taken with daily quoted bid and asked prices, show conclusively, in many instances, that, immediately prior to the cancellation of a promoter's license, a firm bid existed on the stock sponsored by such a promoter, and that, forthwith upon the license cancellation, all support of the market would disappear. In plain terms, this means only one thing; that the project has been abandoned and the investors' equity wiped out.

It would appear imperative that the Committee should obtain the actual loss thus occasioned from, say, the beginning of 1945 to the present time. This can easily be arrived at. The Securities Commission either has in its files or can easily and quickly obtain the names of the brokers whose licenses have been cancelled; the companies whose shares had been sponsored by such ex-licensees; the number of shares in such companies which have been sold to the public; the market on the shares immediately prior to the license cancellations; and the market on such shares at this time. If such an investor loss should prove to be of major proportions -- and this can reasonably be expected -- it would constitute a solid argument for a change in the form of punishment for the violation of security regulations.

The present procedure is to punish a security licensee by the cancellation of his license. However, this may prove to be no punishment at all; in fact, it might provide an easy way out for an unscrupulous dealer.

Having sold his free vendor's shares and the lower priced options in which the profit ratio is greater, he might find it more profitable to abandon the deal and start a new one under the same advantageous conditions by using a 'front', rather than try to sell the more difficult higher priced options. The end result here would be that the investor has lost everything put into a venture, and that the broker has been given virtual encouragement to embark on a continuing series of new deals with an intention of abandoning them in the early stages.

It is not perceived that this situation can be effectively met under the Securities Act as it is at present constituted. Mr. Lennox holds the viewpoint that a war of attrition against lawless brokers will gradually wear them down. The stockholder body does not relish being a Belgium, a cockpit wherein shooting rights are expected by the Securities Commission regardless of the number of innocents who may be hurt. More stringent restrictions have been suggested to

The first of these is the fact that the
 system is not a simple one, but a
 complex one, involving many factors
 which are interrelated. The second
 is that the system is not a static
 one, but a dynamic one, which
 changes as the environment changes.
 The third is that the system is not
 a closed one, but an open one, which
 interacts with the environment.
 The fourth is that the system is not
 a linear one, but a non-linear one,
 which means that the output is not
 directly proportional to the input.
 The fifth is that the system is not
 a deterministic one, but a probabilistic
 one, which means that the output is
 not predictable with certainty.
 The sixth is that the system is not
 a single one, but a multi one, which
 means that there are many different
 ways in which the system can be
 analyzed. The seventh is that the
 system is not a simple one, but a
 complex one, which means that it
 is difficult to understand and
 analyze. The eighth is that the
 system is not a static one, but a
 dynamic one, which means that it
 changes over time. The ninth is
 that the system is not a closed one,
 but an open one, which means that
 it interacts with the environment.
 The tenth is that the system is not
 a linear one, but a non-linear one,
 which means that the output is not
 directly proportional to the input.
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 probabilistic one, which means that
 the output is not predictable with
 certainty. The twelfth is that the
 system is not a single one, but a
 multi one, which means that there
 are many different ways in which
 the system can be analyzed.

cope with the problem, but the experiences of the past six years have indicated that a more drastic application of severer laws goes hand in hand with a worsening of the situation.

It might be advisable for the Committee to review the general position in the security selling business from the time of the inception of the Securities Commission about a generation ago, and to find an approximate parallel case to give us the benefit of past experience. The thought goes back to the pre-prohibition era, a period in which no intense public problem in regard to drinking was noted. With the restrictive legislation prohibiting the sale of intoxicants came the illegal seller. The act was tightened, punishment made more severe, and the illegal traffic became more strongly entrenched, bolder and utterly lawless; it established 'kings' to rule over opposing factions operating in the trade, and threats and physical violence befell those who dared to oppose them.

How true a picture this paints of the problem confronting your Committee to-day!

How did the present trouble in the promotional security field develop, and how can it be remedied? Prior to the early '30's, little or no complaint was made against promoters of speculative issues. Yet no license was needed to sell stock, and before the Securities Commission was formed, the promotional end of the securities business regulated itself in a creditable manner, and was outstandingly successful in discovering and developing new mines. The Ontario Securities Commission was created consequent to a defaulting by several members of the Toronto Stock Exchange. At the outset, regulations affecting the promotional end were few and unimportant, and conditions remained in a satisfactory condition.

Gradually, the Commission increased the number and stringency of regulations affecting promotionals, and hand in hand with such increase, just as it had done during the years of prohibition, lawbreaking in the business increased. With each added degree of restriction, those who were engaged in promoting

found it increasingly difficult to conduct themselves in an ethical way, and more and more they gravitated toward operating outside of the scope of the restrictive security laws. It appears that this movement is still progressing. Seemingly, every new regulation decreases the brokers' profit ratio and gives a fillip to the temptation to overstep legal boundaries. Given an end result such as this, only one thing is possible; honest men will get out of the business and the inherently dishonest will get in.

That is not just a dismal prediction. According to the Chief Commissioner's own statements, it is a present day tragic reality. From the several hundred promoters who were actively operating some six years ago when the Securities Act was made much more rigid, the number of active operators has dwindled to eighty, and Mr. Lennox has informed you that thirty-five of these are believed by him to be conducting their businesses in an unlawful manner. Many who were engaged in promoting have been forced to suspend operations during the past

1870-1871

1872-1873

six years because of the increased severity of security regulations.. Again, this has meant that the issues being promoted at the time these men withdrew from business now lack sponsorship, and a tremendous loss to the public has resulted. Your Committee is urged to follow the procedure outlined in the case of license cancellations and obtain the amount of this loss.

At this point, it might be advisable to examine the Securities Act itself. Some of its provisions are palpably unreasonable, and the opinion has been expressed in legal circles that the Act may not constitute good law. Restraints which prohibit a person from selling his own private property certainly would not appear to be a suitable and fitting part of the law in a democratic country. Discriminatory clauses which allow one man a right while depriving another of a similar right are obviously unfair. Yet that is the way the Act works. As an instance, throughout every trading day the salesmen in member houses telephone their clients and

solicit sales; there is no hindrance to their doing this. However, as Mr. Lennox has informed you, broker-dealers and their salesmen are not allowed to have 'clients' in any sense of the word which is practical. In the enforcement of the Act, as you have been informed, it does not matter if a busy business man has bought a dozen different issues from a broker-dealer, he still must first re-qualify with that broker-dealer if he wants information pertaining to a following issue. The most honest broker-dealer cannot be expected to try to conform with such a ludicrous law.

It is common knowledge that the breaking of one law which does not have public acceptance inspires a disrespect for all law. That is a lesson we learned, or should have learned, from our experience with prohibition. Is it then not a fact, considering the example of that part of the Act we have given, that it is the Act itself which is fostering criminal tendencies? Can any member of this Committee explain how the listing of a stock on an exchange puts any more metal into the ground, or raises its grade or mineable width? Or

can any member, having studied the price swings of listed promotional stocks as published in the Toronto Daily Star of May 21st, 1951, hold to the opinion that the listing of a stock assures any more market stability than could be obtained 'offboard'?

Why, then, the discrimination which is evident in the latitude afforded to the salesmen of member houses as opposed to those employed by broker-dealers? Why is it made to appear wrong for a broker-dealer to send out a large amount of mail, while it is apparently accepted as legitimate practice for a member house to cover every house in the hamlets and countryside, including those of widows and old age pensioners? It is either right or wrong to offer speculative securities in such a broad-spread manner, but if it is right for a member house to do it, then it must be equally right for a broker-dealer to do it. The fact is, of course, that, with a free use of the mails and telephones, the Toronto Stock Exchange members conduct their businesses in a manner which arouses little or no complaint, but broker-dealer members,

with a controlled use of these facilities, appear to run into trouble. It is indicated that the 'controls' do not work very well.

It would seem that ill-conceived legislation, the responsibility for which must be shared by all parties in the Ontario legislature, must be blamed, at least in part, for much of the trouble in the promotional field. Such legislation creates jealousy, division, and bad feeling between the various financing groups, and makes for confusion worse confounded. Again stating a specific instance, one of Canada's largest churches some months ago passed a resolution adjuring its members not to buy 'speculative' stocks. Upon investigation by this Union, it was discovered that the resolution did not originate within the church itself, but was drafted, according to the church's own statement, by a leading member of the Toronto Stock Exchange.

There we have the sorry state of the financing bodies which, in a major way, are responsible for the development of our natural resources. It is a state of cleavage and disruption. In it, participation by the small

investor in the development of our natural resources has been made almost impossible; the independent promoter of modest means cannot pursue his calling; the prospector has lost his market for any discovery he may make. In this circumstance, Canadians are losing their heritage. The development -- and ownership -- of our mineral wealth is gravitating to large corporations, mostly under United States control. The socialistic love of and demand for controls is the very instrument which is driving us toward that which the socialists hate most; monopoly capitalism. No attempt of the Ontario Legislature to regulate any aspect or segment of the mining and oil business can succeed. From prospector to speculator, it is the stronghold of free enterprises.

We speak from the investor's viewpoint only and believe this; the average buyer of speculative stocks knowingly gambles in the hope of securing capital gain. He wants a market play, and isn't overly interested in that part of the price he pays for his shares which goes to the Company, except insofar as the spending of it may give his stock a run

on the market. He doesn't want to read -- and if he did, wouldn't understand -- the gobbledegook contained in the prospectus he receives. He doesn't want the price of the stock he buys raised to cover the cost of endless and delaying regulations, but he does want his broker to include in the cost price of his stock a generous price spread which will build up an adequate 'kitty' for market support. Above all, he is greatly concerned lest the 'plug be pulled' and his bet is lost because his broker loses his license owing to some technical violation of regulations in which he is not the least bit interested.

It may be difficult for the members of this Committee to fully grasp this state of mind of the speculator. We realize that members of the Legislature, in order to be elected, must, whatever their party affiliations are, be of themselves conservative, prudent and careful in their public and home life."

THE CHAIRMAN: That certainly only applies to some.

THE WITNESS: (Continues reading):

"it may therefore be difficult for you to attune your thoughts to those of the speculative section of the public whose interests you serve. However, that is what you must try to do. Our conclusions are that no sizeable proportion of the speculating public want the multitudinous restrictive regulations which have been imposed on the promotional and speculative market field. We ask that the laws effecting them shall be repealed. Cognizant of the fact that, in effect, the provisions of the Securities Act enure to a leading of honest men into law-breaking paths, we also recognize that the inherent and deliberately crooked law-breaker is not being effectively dealt with. The mere cancellation of a license is obviously insufficient. If the provisions of the Criminal Code do not at present suffice to incarcerate the perpetrator of fraud, then the Code should be changed to provide for this and its provisions rigidly enforced.

We therefore recommend to your Committee:

1. That the co-operation of the Dominion Government should be sought to so change the Criminal Code that it can be effectively used to punish those guilty of fraud in the sale of securities.
2. That thereafter the Ontario Securities Commission should sustain its charges against security dealers inside the provisions of the Criminal Code.
3. And that the Ontario Legislature should remove from the present Securities Act all of the many and varied provisions which now stultify and encumber prospectors, promoters, broker-dealers, under-writers, optionees and speculators in their united desire to further the development of our national resources.

All of which is respectfully submitted this...
day of August, 1951.

American Stockholders' Union
per Thomas A. Sutton (Signed)
Organizer."

EXHIBIT NO.145: Brief presented
to Committee by Mr. T. A.
Sutton.

THE CHAIRMAN: Shall we adjourn now for lunch?

MR. JAMES: I move we adjourn.

THE CHAIRMAN: There may be some questions some of the members of the Committee would like to ask, if you will be good enough to come back this afternoon, Mr. Sutton.

THE WITNESS: Yes, I will be glad to.

THE CHAIRMAN: We will now adjourn until 2:30 o'clock this afternoon.

---The witness temporarily retired.

---Whereupon at one o'clock p.m., the further proceedings of this Committee adjourned until this afternoon at two o'clock.

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AFTERNOON SESSION

Toronto, Ontario,
Monday, October 1st, 1951.
2.30 o'clock, p.m.

- - - - -

The further proceedings of this Committee reconvened pursuant to adjournment.

All parties present. (Excepting Mr. Villeneuve).

Same appearances as heretofore noted.

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THE CHAIRMAN: Gentlemen, shall we proceed with Mr. Sutton.

MR. JOLLIFFE: Yes, Mr. Chairman.

THOMAS ARCHIBALD SUTTON, a witness previously heard, now recalled, and who having been already sworn continues his testimony as follows.

MR. JOLLIFFE: Before we go on, Mr. Chairman, I have been discussing this with Mr. Downer, and I think that the Committee would be in a more comfortable place meeting upstairs in the Opposition Lounge. As far as I am concerned, you would be very welcome.

THE CHAIRMAN: That would be very fine. After all,

it prevents the use of the Lounge for its regular purposes.

MR. JOLLIFFE: They are all out campaigning.

THE CHAIRMAN: For what purpose?

MR. GRUMMETT: It will not interfere with anybody up there and the acoustics are not very good here.

THE CHAIRMAN: Much as sitting in the Opposition Lounge is distasteful to me --

MR. JOLLIFFE: You had better get used to it, Mr. Chairman. We had to get used to it.

THE CHAIRMAN: Well, you can get used to anything, you know.

MR. GRUMMETT: And you could even get to like it.

THE CHAIRMAN: As long as you keep liking it, that is fine.

MR. GRUMMETT: I mean the room. When we have a good Minister of Public Works who looks after us.

MR. DOWNER: He does better for you than for the Government.

BY THE CHAIRMAN:

Q. Now, Mr. Sutton, perhaps some of the

members would like to ask you some questions.

A. Very well.

BY MR. JOLLIFFE:

Q. Mr. Sutton, I noticed in your brief this morning you likened the Securities Act to some other legislation in the past which was said to be not acceptable to the public.

Now, apart from your brief, what evidence is there -- or have you any evidence -- that the present scheme of regulations of the securities business under the Securities Act is not acceptable to the public of Ontario.

A. Only from my contact amongst the stockholders. The fact that they have displayed no interest in this thing, and so forth. From the stack of my files, enquiries are now being made, and I have discussed this thing with people personally, and they do not talk about "stockateering"; their discussion is to get a square deal in taxation, and not to be taxed twice on dividends --

Q. Mr. Sutton, my question related to the Securities Act. The suggestion you made this morning^{was} that the legislation does not enjoy public acceptance, and that is why there is so much illegal activity. What evidence have you that the legislation is repugnant to the public?

A. I would say that is demonstrated in Northern

Ontario, in the back-sliding which has taken place there; in the fact that there has been no public participation in mining developments, and that more land has reverted to the Crown than has been staked. Whereas, at the same time, to my personal knowledge, Northern Quebec is booming. You go into these smaller places, and they have the very latest in store fronts; we find prosperity in Alberta and British Columbia --

THE CHAIRMAN: They have securities Acts in both those provinces.

THE WITNESS: They have securities Acts, but we find there are far less restrictions --

THE CHAIRMAN: I thought, in some respects, it was to the contrary.

THE WITNESS: I do not think so. We have fewer restrictions, which come to my notice personally, in the province of Quebec and in Alberta, than we have here. There is no such severe restriction in price-spread in Quebec and there is no discrimination against the use of colour in the literature.

THE CHAIRMAN: Surely, that is a minor point.

THE WITNESS: If it is a minor point, why has the Committee --

THE CHAIRMAN: Surely the public do not find our Securities law unacceptable because there has been some attempt to deal with the colour of the advertisements.

THE WITNESS: No. Furthermore, Mr. Chairman --

THE CHAIRMAN: I thought it was the broker-dealers who dealt with that, in any event; not the Securities Commission.

BY MR. JAMES:

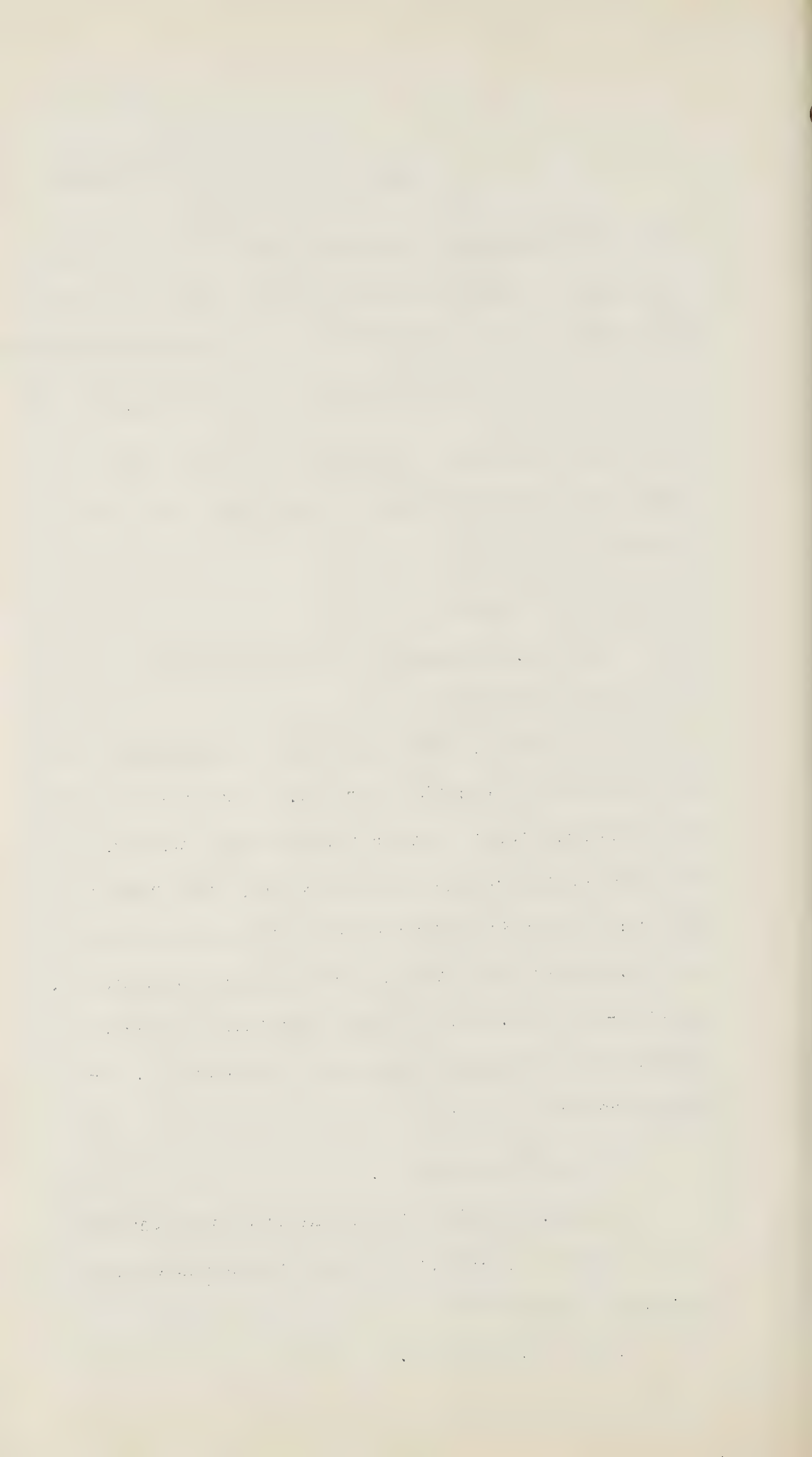
Q. Do you suggest there is not prosperity in our mining country?

A I would say definitely that in comparison with other countries, there is not. I am sure more land has been reverted to the Crown, than has been staked. Prospectors come to me, and they do not know where to go. The number of broker-dealers is down enormously. Mr. Wismer said this morning they are down to 158, an all-time low, and after we take those out -- let us assume they are deducted from the 35 bad ones -- it leaves only 45 --

BY THE CHAIRMAN:

Q. Surely some of the causes of that in the North country -- and you referred to the gold mining industry in your brief.

A. Yes, quite so.



Q. After all, I would think that any lack of interest or any lack of voice on the part of the general investing public would perhaps be construed as satisfaction with the law as it now is. If they were not satisfied with it; if they found it was doing them harm, I am sure we would have heard from some of them.

A I do not know what a man can do -- what a stockholder can do, if the "plug is pulled" from underneath let us say, Lake Surprise, which sometime before the license of Vincent and Wilson was suspended, they had mining land in Marmora, apparently highly regarded by the Department here.

Prior to the time when the license was taken away, Lake Surprise was about 33 bid, and after the license was suspended, it was 20 asked and no bid.

Stockholders did get together, I am informed,-- although I did not attend; I will not go into any factual situation -- but they wanted to see if they could get a license and pull it through, but they could not get it, unless the man was removed as a director, and it does not seem that the Commission can over-ride the Companies' Act, and tell the companies just who will be its directors.

But this is the "payoff", Hugh Bothwick and Company ran an ad, and I called up and said, "What is

the market on Lake Surprise", and he said "20 and 25; what House is calling?", and I said "No House is calling at all" and he said "Oh, 45, public offering". Is that not a ridiculous situation?

If our American friends to the south of us were importuned to buy Lake Surprise at 45 from Hugh Bothwick -- and usually they buy and ask questions afterwards -- and they came back and find on the Street it is 20 - 25, and as soon as they get that information, they get another letter from Hugh Bothwick telling them to buy more at 45, they will get after the Commissioner but not in the way I am suggesting.

BY MR. JOLLIFFE:

Q. I am not suggesting that the Securities Act, any more than any other Act, is perfect, nor that the administration of it is perfect, but once again I am inviting you to give us any evidence you may have, apart from your own brief and your own opinion, but evidence in general that the Securities Act is unacceptable to the public of Ontario.

A. Mr. Jolliffe, that has been said to me by many shareholders, that it is unacceptable. I will admit that that class of shareholders are those who are not professionals, but very actively engaged in the market; they know what the "score" is, and some of these people

who are market wise very strenuously object to these provisions. They do not like the price spread business. They are desperately afraid of this cutting down ten cent stocks. They know the business probably as well as I do, and they know unless a broker is allowed to have sufficient latitude in his spread to build up a "kitty" so when the bad days come -- and there are such bad days coming upon us quickly -- they will not be wiped out.

BY THE CHAIRMAN:

Q. But the price-spread is controlled by the broker-dealers?

A. Yes, but is it a free control?

Q. The Securities Commission does not deal with that directly.

A. Then I will have to counter with this question; does this Committee think the broker-dealers are free men, or that their Association has been more or less imposed upon them? I do not think, if a secret ballot was accorded to the broker-dealers as individuals, they would "go for" the broker-dealers' representations at all.

BY MR. JOLLIFFE:

Q. That may be so, and it may be true of

real estate brokers and hotel licensees and other people who hold public privilege, but what does it mean? What is the effect of it? The fact that certain people would prefer not to be regulated; would you say there is not public acceptance of that situation?

A. I would say there is no way for the public to speak, and that is only the way they can act.

Now, we do know of a very small number of brokers who find it worthwhile to go to the public. The public say very definitely, "We will not go into the business as it is", and they cannot get money, and my guess as to why they cannot get money may be as good as anybody else's.

THE CHAIRMAN: From the evidence we have here, some of them have a great deal of money. They have put a great deal of money into selling in Canada, as well as in the United States.

THE WITNESS: Oh, I do not think so.

BY MR. JAMES:

Q. My understanding is the Association wants to protect the public.

THE WITNESS: The Lord preserve us from our friend.

BY MR. JOLLIFFE:

Q. Mr. Sutton, let us be practical. You say the regulation does more harm than good?

A. I cannot see where it protects.

Q. That is your view, that it does more harm than good?

A. Yes, definitely.

Q. To be practical about it, how do you explain the fact that 47 out of 48 States, and all the provinces in Canada, have found it necessary to pass regulations, to regulate this business?

Even though you may be right in theory, why is it this has been the expression in a vast majority of the states in the United States, and in all the provinces of Canada?

A. I must say that in the United States they have made some ghastly mistakes.

Q. They seem to be almost unanimous on that point.

A. I have in my files some statistics on the American mining industry, which show that prior to the coming into being of the S. E. C. , there were more than 11,000 mines operating in the United States, and that now, after these years of operation of the S. E. C., the number of mines operating in the United States has declined to less than 3,000.

THE CHAIRMAN: Of course, that might be due to several other causes. Have you any particulars as to the oil development in the United States? I understand that has been increasing rapidly in a certain sense.

THE WITNESS: By large established corporations -- granted.

THE CHAIRMAN: That may not be entirely so.

BY MR. JOLLIFFE:

Q. Do you know that several years ago there were twice as many manufacturers as there are to-day in Canada? You do not attribute that to the Securities Commission, do you?

A. To some extent, yes.

Q. But would there not be many other reasons?

A. Oh yes, many other reasons enter into it. But notwithstanding that, it is becoming more difficult for any small promoter to start anything -- very, very difficult.

You see, we have our "sacred cows" in the form of incorporated companies. We worship these things. It is most ridiculous, in my opinion, that we should make a man -- a promoter -- spend \$890. in fees to the province, plus another \$600. to lawyers, to go and inspect the ground.

BY MR. GRUMMETT:

Q. Oh, you are wrong there. The prospectors' syndicate will take care of that.

A. How many people will go out on a prospectors' syndicate? That is another "sacred cow". The way we are doing now is to fill the back pages of our Northern Miner Hand Book, where thousands of little mining companies have issued a little stock, and then come to a sudden end, and the more bonding that is necessitated and the more regulations for qualifying, the less money there is to go into the ground.

BY MR. JAMES:

Q. What about the public? How will we take care of the public?

A. Should we take care of the public? I would say that when 7/16ths of the licensed broker-dealers are reputed, by Mr. Lennox, to be unlawfully --

THE CHAIRMAN: I do not think he said quite that.

THE WITNESS: -- I would say very definitely when I meet people in my village, or my church, I do not think there is 1/16th of the people of Canada who are bad. Why is it that in the securities business 7/16ths are bad? It was not that way in the old days.

Of course, we did have the old L. R. scandal, but we opened up our mines. If we had had these regulations in the time that Harry Oakes or Mr. Bickell were in the north country, they would not have finished up with millions of dollars; they would have finished up with a number on their backs.

BY MR. HOUCK:

Q. Do you mean to say the Ontario public would be better protected if we threw the Securities Act on the scrap heap?

A. Yes, under one condition.

Q. What is the condition.

A. Then they would come under the Criminal Code. What do they do to these people? Put them out of business.

BY THE CHAIRMAN:

Q. In other words, you would include in the Criminal Code more drastic regulations than now appear? You would shift to the Criminal Code some of the provisions of the Securities Act, would you?

A. Yes, and thereby indirectly we would get the benefit.

Q. What advantage would there be in that?

A. There would be an indirect advantage. The price of a stock on the Board is not governed by the

intrinsic worth of the stock; it is governed by the law of supply and demand. That law of supply and demand is governed to a great extent by publicity, and every once in a while it seems to coincide with the time that the S. E. C. has its appropriations coming up, or maybe the time that some of the "blue chips" on the Toronto Exchange, want a little more business.

Every once in a while we have the Toronto Star coming out on the colour business. What I am saying is this, in answer to your question; that under the Criminal Code, where the responsibility would belong to Ottawa --

Q. Would you like us to control the Toronto Star?

A. Yes, and in a very easy way. This is the way to do it. Put it under the Criminal Code, and stop this business of the Toronto Star, because when it becomes Ottawa's responsibility, the Toronto Star -- we will not see any more about it.

That is the whole answer to the question, and the answer is that the St. Louis Post-Despatch publishes a lot of stuff, and that is all a lot of rotten politics.

There are reasons behind all this stock-ateering" business, and it comes down to this, that they want to serve a few people, but they want the whole works.

That is why I brought into this thing the matter of the Toronto Stock Exchange, coming out and condemning any participation by putting money into the development of the north country.

Q. May I be personal for a moment? What was your business before you were connected with the Stockholders' Union?

A. I have been in the Public Relations since actually early in the 1900's.

Q. You were not in the stockbroking business?

A. I went in to sell a certain amount of stock a number of years ago, when the people with whom I was connected asked me for some advice. I have done pretty well.

Q. You have never been in trouble yourself?

A. Oh, certainly not. I stopped doing anything about it, with the change in the Act of 1945, so I would not get into trouble. I did not like the Act. There was nothing in the Act I could see which would put the bad chaps in jail on the one hand, and, on the other hand, leave the honest men with the right to do business in the way that Ryrie Birks do.

Could you imagine going up to Ryrie Birks and saying, "You cannot put that green velvet in your window; you have to take that out, and put an old,

dirty sack in there?

Furthermore, when they show a watch to a customer, who has gone in there to see watches, can you imagine the salesman saying, "The law forces me to tell you that it cost \$5.75 to manufacture that watch".

That is the way you want people to sell these stocks.

BY MR. JAMES:

Q. Are we to infer when the Securities Act came into force, you could not continue doing business?

A. I did not intend to. The record will show I did not take out a license. If I cannot telephone my friends, and have to be subject to this, that, and the other thing, and put up a bond, I do not want to do business.

My name is "Tom" Sutton, and I want to do business as "Tom" Sutton, and I think it is ridiculous for the Securities Act to tell me I cannot do that any more.

BY THE CHAIRMAN:

Q. There is nothing in the Act to prevent you from telephoning your clients.

A. I cannot have any clients, if I am a broker-dealer. Even the thirteenth transaction would not make

him a client of mine. Contrary to what Mr. Wismer says, Mr. Lennox said he did not care if they sold a dozen issues, if they bring out a new issue, they have to re-qualify the man.

BY MR. JOLLIFFE:

Q. If you are selling as a principal, you have cusomters, not clients.

A. Well, I will not split hairs on what the name is. You are not allowed to have customers.

In the meantime, the broker has to go through all this expensive business of advertising, as I see it.

BY MR. JOLLIFFE:

Q. You do not seem to understand that it is not a matter of splitting hairs. There is a very real difference between a man selling something on his own behalf and selling it for somebody else. There is a very real difference there.

A. I would like to know how a customer is someone who belongs to a broker, acting as an agent, and a "client" belonging to a broker acting as principal, and vica versa. I cannot follow that at all. I cannot understand that.

BY MR. GRUMMETT:

Q. A short time ago, you made the statement that

quite a number of properties had been abandoned, and had gone back to the Crown.

A. Yes.

Q. You attributed that to the operation of the Securities Act? In what manner, and just how do you explain that statement?

A. I think it has become pretty nearly impossible for a man to observe this law and meet his expenses, and try to break even, in going out to promote, whether he is an independent promoter or a broker-dealer. I do not think there is enough money in it.

Q. Might it not be it is because the prospectors having examined the ground, and found it useless, and decided to abandon it, rather than carry on promoting it? He would know he could not get anywhere with useless ground, and he would say, "That is all right; I will abandon it".

Do you think that is not the reason?

A. In some cases it would be, but it would seem very peculiar to me that the ore is resting in the ground of Ontario, while it is being taken out, in the province of Quebec.

Q. How many claims are staked before you find one that becomes a mine?

A. Oh, tens of thousands.

Q. Is it not really to restrict the operation until it proves up, rather than have a lot of promotional schemes, but giving the opportunity of mining the ore, rather than mining the land?

A. If you tell Bay Street how to tell the one which is good, rather than the ten thousand which are not much. The only way to find out whether it is good or not --

Q. Is the showing?

A. Yes, to examine the property.

Q. And that costs money?

A. Yes.

Q. But do you not think most of the claims are given up because there is no good showing there, and the prospector says, "I have staked it on the chance that there might be something there, but I have no desire to go ahead with it now"?

A. We have to take it by and large.

BY THE CHAIRMAN:

Q. I think one of the reasons for the falling off in development of gold mines is that under the price conditions now, they do not think they can make it pay.

A. Oh yes. I know a case right next to Steep Rock where, if they tried to get under way, they will have a great deal of difficulty.

Q. What is their difficulty?

A. It is promotional.

Q. They cannot get anybody to take an interest in it?

A. It is promotional.

Q. There may be many reasons for that.

A. There may be, but it adjoins Steep Rock.

Q. Just because it adjoins Steep Rock, does not prove anything.

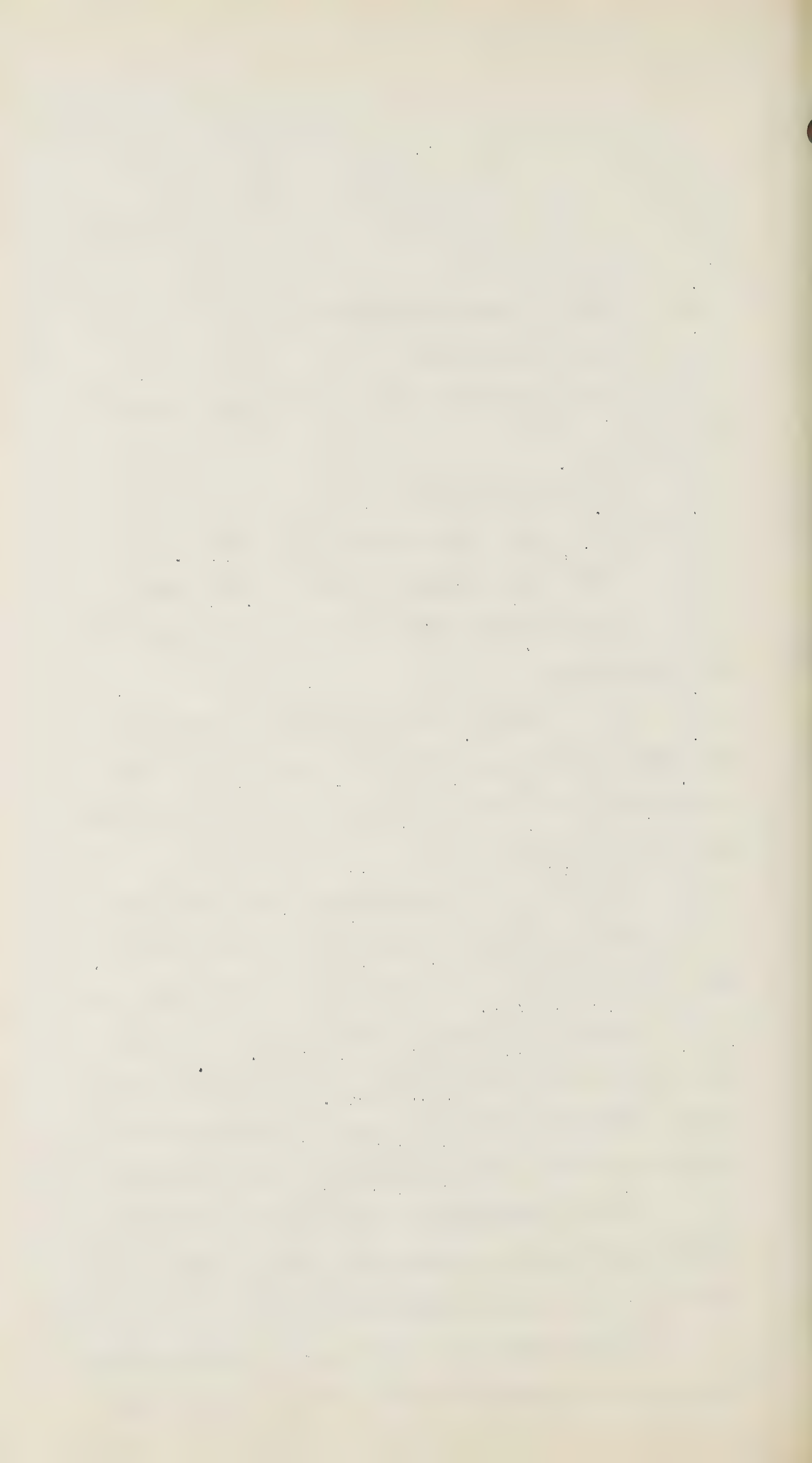
A. No. I heard of another chap on Friday who has been trying to get a deal with the S. E. C. He now has had it up for nearly three years, and has spent more than \$10,000.

Q. But that is not the Ontario Securities Act.

A. That is right. There are problems he has to meet. But the point is, if the Ontario Securities Act is putting bars in the way of easy financing -- it is much harder than it used to be -- how about the other angle? How many people have been convicted of fraud, who have just had their licenses cancelled? Very few.

And we hear of people coming back with their "fronts" and operating under other names. There is the reason you cannot get public money.

I think myself that the answer to this is going to be, if, as and when we really can get together and



get going, that it is the investor himself who has to clear it up. I do not think he should lean on the Broker-Dealers' Association or the government at all. I think it is up to the investment dealers themselves to get together and clear the situation up, by getting better informed.

Q. That may be all very well for people who are accustomed to doing business. I do not think we have any great responsibility in protecting business men who are experienced and otherwise, by investigating these matters. They take their own chances. But this --

BY MR. JANES:

Q. What about a widow with \$1000. life insurance?

A. You mean if she is approached?

THE CHAIRMAN: There is another group in the public who are generally the ones who lose.

THE WITNESS: A good stockholders' organization would afford considerable protection to that widow. But the Stock Exchange is largely to blame, because we have seen good stocks go on the skids, with their "blue Chips" --

Q. I do not know of any broker-dealer who has been doing that? Have you been doing that?

A. We have started it.

Q. In the meantime, until you get into your stride in this campaign, what will we do?

A. I think you can tighten the laws, and see that these people are not defrauded, but I do not think you can do it under the Securities Act.

BY MR. GRUMETT:

Q. We have nothing to do with the Criminal Code.

A. You certainly have.

Q. How? It is a Federal Statute.

A. A man votes in a Federal election. Do you not belong to Canada?

Q. Are you going to ask us to wait until the Criminal Code corrects all the propositions you have in mind, before we do anything to protect the uninformed investors?

A. No, there would be a necessity of waiting very long.

It is my understanding, Mr. Chairman, that you are personally now negotiating for a change in the Criminal Code, for the purpose of extraditing people. I cannot agree with extradition myself. I do not think that is the right approach, and if you can make your approach to Ottawa for extradition, why could not an

approach be made to the same/source for other changes in the Act?

Q. Nobody has said we have made any approach to Ottawa in respect to extradition.

A. The newspapers said you did.

THE CHAIRMAN: Nor have we made any approaches. That is a matter entirely the responsibility of the Federal government. It has been said there have been consultations on an official level -- on a civil service level -- and the Securities Commissioner and Deputy, but this government is not involved in any way, in that Treaty.

A. I may have placed my statement wrongly. I will accept the way it has been placed, but it does not seem to me it should be difficult to establish a law which really would stop fraudulent dealings.

Q. You admit that the Criminal Code does not do that now?

A. The Criminal Code does not seem to operate any more than the Securities Act. We see people defrauded out of hundreds of thousands of dollars, and there is no punishment. That is a deterrent to people investing their money, and makes it impossible for the prospector to sell his claim, or the promoter to go ahead and promote it.

Q. You think your Organization would be more capable of advising the widow about her \$1000., than the present set-up?

A. The present set-up is not advising her.

Q. You have not done that, and you have been in existence for seven years.

A. No. We cannot do any business until I walk out of this room, but we have been doing research on it for seven years.

Q. While you were doing your research, we have done the best we can.

A. Oh, I will say that the situation is not improved.

Q. You seem to think that you can do better?

A. I am sure --

Q. The minute you find you can succeed with the situation, we would be glad to let you do it, but we want to make sure you can do it.

A. Yes.

BY MR. HOUCK:

Q. You heard Mr. Lennox and Mr. McTague and Mr. Wismer testify before this Committee that it depends on United States capital to quite a large degree for the development of our natural resources, pertaining to the sale of stock? Do you agree with that?

A. I am afraid I have to agree with it. But I would like to see our own Canadian people coming in.

Q. Then, if you agree with that -- and you told us a few moments ago you thought the Ontario Securities Commission should be scrapped, where would the confidence of the United States be then, with regard to our stocks?

A. I would not admit for a moment that the people of the United States have any confidence. Mr. Wismer very well showed that in a statement this morning, The people are losing their confidence.

Q. They have not lost all their confidence. They are still investing money here.

A. In municipal issues. I think Mr. Wismer said that the "send-outs" to the United States are nearly blank. I think we have lost their confidence, and I think we will have to regain it.

Under the S. E. C. , in the United States, there is less than one cent on the huge amount of savings dollars per year, which goes for investments, even in U.S. securities. It is no coincidence that since the inception of the S. E. C., it has been impossible to raise money.

BY MR. JOLLIFFE:

Q. What do you mean "impossible"? You can hardly describe the raising of a billion dollars as

being an "impossibility".

A. The S. E. C. will tell you that the average time for clearing an issue may be twenty-one days. That may be all right in some places, but they do not tell you about the years of delay in some cases to clear a primary issue through.

Q. Years of delay?

A. Yes, years of delay.

Q. Can you give an example where it has taken years of delay?

A. I think I have a clipping which covers that.

The St. Louis Post-Despatch is not the only newspaper. This (indicating) is from the Mining Record of Denver, Colorado, dated October 5th, 1950, and it says:

"Salt Lake City, Utah-- Many reasons are advanced to explain the sorry plight of mining in the western states. At present the strong demand for copper and zinc has given producers of these metals a higher price, but foreign produced lead seems to have dealt a serious blow to the domestic lead producer. Devaluation of foreign currencies has also played a major role in upsetting the metal situation. The free-trade policy of the government with its reciprocal

trade agreements has persuaded many mine operators that the administration is "hostile" to the mining industry. This attitude of "hostility" toward mining is emphasized when one considers the curbs imposed by the administration upon financing mining enterprises.

Since the Securities Exchange Commission (SEC) came into being in 1933 and 1934, more than 8800 mines have quit. This does not mean that they were all put out of business by the SEC. Some mines naturally "fold up" for lack of ore and other reasons, but under normal conditions, new companies are formed to carry on.

The United States Bureau of Mines compile elaborate statistics on mining activity. Their figures show that in 1935 when the SEC was getting set up there were in the U.S. 11,033 producers of the five chief basic metals -- gold, silver, copper, lead, and zinc. The records show that in 1949 this number had been reduced to 2308 mines.

Figures for activities in the ten western mining states follows:"

Then follows a list of the activities in various

states, which I will not read.

Then it goes on to say:

" It is not the purpose of this article to blame the present mining situation solely upon the activity of the SEC or any government bureau, but it is significant that during the 15 years of life of the SEC the number of active mines in the 10 western states has been reduced by nearly 80 per cent. Initial restrictions by the commission were so stringent that in 1944 at a conference held in Butte, the SEC modified some of its regulations and Congress raised the exemption limit from \$100,000 to \$300,000 with a special provision for assessable companies of \$100,000 a year. Red tape and many additions were retained to provide little relief by the modifications".

BY MR. JANES:

Q. What is the date of that?

A. October 5th, 1950.

BY MR. JOLLIFFE:

Q. That does not quite answer my question.

They did not say "not as many mines in the United States," they said there are not as many mining firms in the United States. It does not prove your point. All it states, is a

change of conditions.

A. I think there has been a greater amount outgoing and nothing coming in. A tremendous amount of land in the United States that is suitable for exploration -- and also in Canada --

Q. Have you by any chance heard of the development in the State of Texas in recent years?

A. Oil development?

Q. Yes.

A. Oh yes. Nothing by small independents, though. Only by the large companies.

Q. Nothing by the independents?

A. Nothing to speak of. I am very closely in touch with our Alberta situation, and I would say that nine tenths of that is now being developed by, let us call it "mutual manufacturing companies". The small man cannot go in.

BY THE CHAIRMAN:

Q. There are a great many new companies being formed to start in a small way?

A. Yes, but all they can do is make a deal with Shell or the Imperial. Unless they have their hooks in, they cannot raise the \$80,000. to go through making a deal.

Q. On the other hand, the shareholders may benefit.

BY MR. JOLLIFFE:

Q. It is also possible that there is such a thing as a "scapegoat". You are trying to make the Securities Commission and the Securities Act the "scapegoat" for something.

A. If something besides the amount of development in the United States was being done by the companies which have the institution and the money, and the staff, to do the job, I would look at it differently. Most of the provinces in Canada do not have those facilities.

BY THE CHAIRMAN:

Q. But almost everybody can buy Imperial Oil, and can participate in whatever may be made from it.

MR. JOLLIFFE: Or the British-American Oil. They filed this summer with the Securities Commission.

THE CHAIRMAN: If they had bought Imperial Oil a few years ago, they would have done pretty well.

THE WITNESS: I would draw a line directly through the year 1945, to deny those statements. Up until the year 1945, we were bringing in mines much more quickly and more profusely than we are now.

THE CHAIRMAN: There are many reasons for that.

THE WITNESS: Yes. The one I am looking at -- and the main reason -- is that the small man cannot go out with a few thousand dollars and do it. It did away with bringing in mines. Bringing in mines now has stopped.

BY MR. JOLLIFFE:

Q. When was a mine ever brought in by a small man with a few thousand dollars?

A. Let us take the case of Campbell Red Lake. That only had a few thousand, when it started. It was brought up from nothing.

It was followed up by the Dickinson Red Lake --

THE CHAIRMAN: That was before the Securities Commission.

THE WITNESS: That was before the Commission came in. I sold my clients stock in Campbell Red Lake at 16 cents, and now it is \$3.80.

I sold Dickinson Red Lake at 22, and look where it is to-day.

Q. There have been several mines which came into being since the Securities Act was originally passed?

BY MR. JANES:

Q. There are several mines --

THE WITNESS: Not since the change of 1945. That

was when the Act was really changed. Prior to that, there was no difficulty in going out and getting a few thousand dollars. We brought in Campbell Red Lake and Dickinson.

(Page 3608 follows)

Now it is in the position of being able to put up one hundred thousand dollars to buy the stock listed on the exchange, and can take advantage of the customer's man who is allowed to pick up his telephones and talk to everybody he wants to.

I think there are ~~grounds~~ ~~chosen~~ by other people, other than Mr. Arthur White, who do not have anything like a hundred thousand dollars, and I cannot see why a man who wants to pick up a telephone and wants to sell this other ground, should not do it.

Q Is it the telephone restrictions which bothers you most?

A I certainly think that is one restriction. Then there is the matter of lack of colouring things.

Q That did not come into the 1945 Act?

A No, I know that. But before that when I drew up the Campbell Redlake prospectus, I can tell you it really glittered, and people should be thankful for it; sixteen cents then, and now \$3.80.

BY MR. JANES:

Q What do you call your organization?

A The Stockholders' Union.

Q Who are they?

A I think we went over all that.

The only reason I went into the brokerage business was because a lot of people called me and would say, "What do you think of that, Tom?", or, "What do you think of this?" I said, "I cannot tell you which is good, without becoming an investment broker," and they said, "Why do you not take out a license; you know the ropes, and pick on some of these things." Which I did.

I am not interested in getting back into it. I made no money out of it. I bought out from my market every cent of the twenty-two thousand dollars, and came out on the right side of the deal, and squared all the accounts, and left it just as it was. The stockholders got back everything, except their expenses, and they still have the ground.

MR. HOUCK: No more questions, as far as I am concerned.

MR. GRUMMETT: That is all for me.

THE CHAIRMAN: Are there any further questions?

(No response)

Thank you very much, Mr. Sutton.

---The witness retired.

NORMAN WILLIAM HAROLD COX.

A witness being called and duly sworn, testifies as follows:

BY THE CHAIRMAN:

Q Mr. Cox, you are in the employ of the Ontario Securities Commission?

A I am.

Q What is your exact status?

AA I am an investigator of Group 3.

Q How long have you been so engaged?

A Since April of 1946.

THE CHAIRMAN: I think some of the members have some questions they would like to ask you.

BY MR. JOLLIFFE:

Q What was your previous experience, Mr. Cox?

A I had been on the police department of Forest Hill Village from 1934 up until 1946, barring the war years.

During the war I was with the police of the Air Force, attached to the service investigation of the

R.C.A.F.

Q You did investigational work in the service?

A I did.

Q I wonder if you would describe to the Committee a typical investigation that you are called upon to undertake.

THE CHAIRMAN: I do not imagine you want him to give the names at the moment?

MR. JOLLIFFE: No, I am not interested in names. I thought the witness could give a general picture of the sort of work he is usually engaged in.

THE WITNESS: Well, most of my work with the Commission has been investigations into more or less criminal matters in connection with securities.

The most recent one -- and I am speaking of a case which has been through the courts -- is in the matter of where, -- to describe it briefly -- the President of a company who, with an accomplice, as I shall call him, made a "phoney" agreement with another company, and filed with the Commission, or attempted to file, a prospectus in which there was a "phoney" optionee, and a "phoney" under-writing agreement. Through the false representations made by the president of

the company, and his accomplice, something close to fifty thousand dollars (worth of stock was sold in Ontario.

The investigation was rather an extensive one; it covered some time because there **was** a matter of forgeries which had to be inquired into, and evidence gathered, and it did take some time, concerning forged letters, "phoney" under-writing agreements, proof of the non-existence of a fictitious optionee, and such.

There were three parties charged in connection with it, and a conviction was secured against two of them.

BY MR. JOLLIFFE:

Q You gathered the evidence in that case?

A Yes.

Q Were these prosecutions under the Criminal Code, or under the Securities Act?

A Under the Criminal Code.

Q They were criminal prosecutions?

A That is right; there were thirty odd charges against each, forgery, uttering, conspiring to defraud, and false pretences.

Q And you got two convictions?

A Convictions against two parties, yes.

BY MR. GRUMMETT:

Q There was more than one conviction against each, I presume.

A The case went to trial on the conspiring to defraud, and the evidence of false representation, obtaining by false pretences, forgery and uttering, of course, was all given in that particular charge, and a conviction was registered on a charge of conspiring to defraud, and they did not proceed, of course, with the other charges.

Q Now, Mr. Cox, some mention was made by a previous witness to the effect that your officials, -- that is, the investigators, -- were not empowered or clothed with the power to arrest, and it has caused difficulties at different times.

What is your suggestion regarding giving investigators in positions such as yours, the power to make arrests when you find something criminal is going on?

A Quite frankly, I do not believe it would be helpful, judging from my own experience. I cannot think of any case where we could have used such powers.

The matter of investigating an offence under the Securities Act is not exactly like investigating house-breaking or shop-breaking, where you might catch a man in the act of committing an offence, and arrest him.

In an investigation under the Securities Act, for instance, it is a matter of finding an illegal salesman in an office. You may walk into that office, and find a man whom you suspect to be an illegal salesman, but it would generally take you some time before you gathered sufficient evidence to make you feel the man should be arrested.

BY MR. JOLLIFFE:

Q Were you the investigator in the Kaufmann case?

A Yes, with Mr. Crowe.

Q What did you encounter in that case?

A In the case of Kaufmann; as you may all know, we went to the office of Burgess, as the result of an anonymous telephone call, to the effect that a man named Cottrill, who is not registered with the Commission, was selling over the telephone from Burgess & Company.

So a surprise visit was arranged.

Mr. Crowe and myself went into the office, and

we found Kaufmann. I might say, when we first went in, we did not speak to Kaufmann immediately. He ran from the office. He was chased by Mr. Crowe and brought back. Of course, that excited our suspicions somewhat. He tried to dispose of the contents of his wallet, and in going over the material we found, what appeared to be phone cards. However, we could not check them from the files of the company, because the files were locked, and we did not have the key.

BY MR. HOUCK:

Q Mr. Cox, if you had the power to arrest him, would you have arrested him right on the spot?

A In the case of Kaufmann; we would have had to have the power to arrest him under an order, without a warrant.

If we had gone into the place and had seen Kaufmann in there, and he had given him name, of course, we would not have been able to search him. We would have had a lot of difficulty in arresting him. It was suspicious, but I do not think we could have arrested him.

The fact that he ran, and we found these cards on him, which appeared to be telephone cards,

but which we could not check at that time, I am not so sure I would have arrested him, even if I had the power.

BY MR. GRUMMETT:

Q Is there any danger in giving you powers similar to those of the Provincial Police?

As you know, they carry a general search warrant with them at all times. But would there be any danger in giving your officers the same kind of power?

A I do not believe we really require it. Under the Act we have very broad powers for conducting formal investigations.

Our experience in the brokerage business, in making informal enquiries, has been that they do co-operate.

BY THE CHAIRMAN:

Q On making an enquiry of this kind, first of all, you interview the people in the office?

A Yes.

Q If the conversation reveals the necessity for examining books, that is done by an auditor?

A That is right.

Q So, in the initial stage, it is a matter of

interest?

A That is right. We divide the investigation into two parts. There are the informal inquiries which are made first. If it warrants a formal investigation, then we write our reports and ask for an order to be issued. In some cases we would go on with some further investigation, without asking for an investigation order, where we believe we could get the information without it.

BY MR. HOUCK:

Q On the afternoon you interviewed Kaufmann, did you have any suspicion he would jump the country?

A When we went into Burgess and Company, we did not know anything about Kaufmann -- nothing about him. We did not just know who Benjamin Kaufmann was. When we found out in the office that he was an American, the thought did occur that he may leave.

BY MR. JOLLIFFE:

Q And apparently he did leave in great haste?

A I believe so.

It would be difficult to actually catch a person in the act of committing an offence against the

Securities Act, in the way you suggest, such as police officers, who run across a house-breaker or a shop-breaker.

BY MR. GRUMMETT:

Q In the Kaufmann case, apparently he was in that position, because when you came into the room, he tried to destroy incriminating documents?

A Yes.

THE CHAIRMAN: How would he know they were incriminating?

MR. GRUMMETT: Who?

THE CHAIRMAN: How would the investigator know they were incriminating documents?

MR. GRUMMETT: In the Kaufmann case, he was a little afraid.

THE CHAIRMAN: That is true, but I think the point the witness makes is that you would almost have to catch him in the act of making a fraudulent statement to some customer.

THE WITNESS: It is conceivable you might run

into that.

BY MR. JOLLIFFE:

Q Did you ever run into that?

A No, the Kaufmann case is very isolated. We never came across such a case before.

BY THE CHAIRMAN:

Q In that case you found a man in the office who turned out to be an unregistered salesman. I suppose you did not know about that until later?

A Yes.

Q Apparently he was --

MR. GRUMMETT: He did not know whether they had the power or not. He assumed they had the power to search him.

BY MR. JOLLIFFE:

Q You were acting on a "tip". That is why you went there that night?

A That is right.

BY MR. JONES:

Q In that case, if you had taken a policeman

with you, he could have held him.

A We could not have instructed the police to hold him for a breach against the Securities Act, because we had no evidence against him then. And then, under the Act, the Attorney-General must direct that a prosecution be initiated.

BY THE CHAIRMAN:

Q Yes, for statutory offences?

A Yes.

BY MR. HOUCK:

Q Could you identify Mr. Jolliffe's coat as one of Mr. Kaufman's coats?

A No, I don't think so.

Q Did you ever do any wire-tapping to get evidence?

A No, sir.

Q You do not believe in that?

A No, sir.

BY MR. JOLLIFFE:

Q Mr. Cox, are you one of those who **conduct** investigations as a result of one of these orders signed by the Hon. Attorney-General (Mr. Porter)?

A Yes, sir.

Q You are?

A Yes.

Q What is the procedure in an investigation of that sort?

A You are referring now to examinations under oath?

Q I think you had better start at the beginning. I think you said it falls into two parts.

A It does. If a complaint comes into the office, it is assigned to an investigator who goes out and makes the initial inquiry.

If, as the result of the inquiries, it is felt that an offence has been committed, then an investigation order is asked for.

When the investigation order is issued, subpoenas are then sent out to the various witnesses, and they attend at the building, and are examined on oath as to what their knowledge of the matter is. They are subject to questioning by the investigators.

Q That relates to the questioning of witnesses. How do you proceed where you have reason to believe there may be documentary evidence in the office of a company?

A Yes.

Q How do you proceed, in that event?

A We would go to the office and make our inquiries at the office, and examine the records. If I may illustrate it, sir; if I received a complaint that somebody had received a telephone call from a broker, and that party had not solicited any information, nor was he a client of the company, we would go to the company's office and check the client's ledger to make sure the person's name was listed as a client of the company.

We would question the broker as to the details of the telephone calls, to find out if a phone call had been made. We have means outside of the broker's offices, to find out if they have telephoned, and I would look for the evidence in the office.

If the broker admits that a telephone call was made, then we ask to see the enquiry of the person sending in, asking for information.

BY THE CHAIRMAN:

Q And if he sent in an enquiry, the telephone call would be perfectly legal?

A Yes, it would be legal, yes.

Q As soon as an investigation order is made, then, of course, you have the right to seize any documents

which you think are relevant?

A That is right, sir.

BY MR. GRUMMETT:

Q You are given at that time, a search warrant?

THE CHAIRMAN: No; the Attorney-General's order has the same effect.

BY MR. JOLLIFFE:

Q That section of the Act seems to be wide.

THE CHAIRMAN: Yes, as I said, we could examine these books, which I think might be a pretty good idea.

MR. JOLLIFFE: Yes. To empower the Attorney-General to order the investigation. In fact, have you gone into any office, other than the office complained about, looking for documents which might be relevant to offences alleged against the other office, as a matter of practice?

A No, I would not say we have. We have, of course, visited the offices of many mining companies, without orders, where no order has been issued, and we have received the same co-operation which we received from

other brokers.

Q Suppose you did not receive co-operation?
Let me give you this example; supposing there was a complaint which you thought was worth investigating with regard to the activities of a certain broker-dealer, and in order to get at the facts, you thought it advisable to go, in the first place, not into the broker-dealer's office, but to the office of the mining company whose issue the broker-dealer was handling; I take it that the Attorney-General can make an order which would authorize you to go into the mining company's offices, as well as the broker-dealer's?

A That is right.

Q That does happen?

A Oh, yes. Mining companies are named in the orders, as well as the broker's names.

Q They have to be named?

A Whether they have to be or not, is debatable --

BY THE CHAIRMAN:

Q They generally are?

A Yes.

BY MR. JOLLIFFE:

Q I think this would be good practice?

A Yes. I may say that the latest order which was upheld by the trial judge is being appealed.

Q Have you had occasion to make any investigation of alleged "fronts"?

A Yes. We have made some investigations, because a person was suspected of being a "front".

But I might say that the work in that case is chiefly done by the auditor, who makes a check of the records of the business to see what the books show, and then the investigator follows it up with the auditor and questions any persons who would be able to give us information.

Q Have you been on such cases yourself?

A Yes.

Q Is it very difficult to get to the root of the thing?

A Most difficult.

Q Most difficult?

A It is not very difficult to gather enough information to make you very suspicious, but it is very difficult to gather evidence which would be considered real proof.

BY THE CHAIRMAN:

Q On the other hand, apparently under the Act there is machinery for the fullest possible investigation of the books of any operator or any company, which might be involved in the securities business, in almost any conceivable way?

A That is right.

Q There is no lack of power to investigate?

A No.

BY MR. JANES:

Q Do you think the Act is putting any undue hardship on these companies?

A I do not think so.

Q And that it should be scrapped, as was suggested a few minutes ago?

A I cannot agree to that.

Q The point is, do you think it is contrary to providing protection to the public? Do you try and protect the public?

A That is our function. That is what we are trying to do. I do not think any investigation into the books and records disrupts their normal business, unless the people running the company are potential

accused persons.

Q That is the point; if they are doing an honest business, they have nothing to fear from your investigation?

A No, not at all.

BY MR. HOUCK:

Q Are you called upon to conduct many investigations, Mr. Cox?

A We always have a number on hand.

Q You have a waiting list?

A Yes.

BY MR. JOLLIFFE:

Q Do you usually work alone or accompanied by another investigator?

A No, an investigator generally works with an auditor. It is seldom there are two investigators on the same job, although it sometimes happens, the investigators are carrying on more than one investigation at the same time.

Q You have been doing this work since 1946?

A That is right.

Q Has any person ever suggested to you that you lay off an investigation, for financial consideration,

or some other consideration?

A No, sir.

Q You have never been "propositioned"?

A No, I have never been "propositioned".

MR. JAMES: Not with his honest face.

MR. JOLLIFFE: Yes, they would realize it was useless.

BY MR. JOLLIFFE:

Q As far as you are concerned, you feel that you are sufficiently well-armed under the present legislation to carry on the work you are called upon to do?

A I believe so. I believe the powers given to an investigator under the Act as it is now are quite all that he needs.

THE CHAIRMAN: They could not be much wider.

BY MR. JOLLIFFE:

Q No. May I ask who is your superior? To whom do you report?

A Mr. Cameron, the senior solicitor, and also the chief investigator.

Q Does that mean you make reports to him, and that he assigns work to you?

A That is right, sir.

BY MR. GRUMMETT:

Q How many investigators are there in the Department, carrying on investigations such as yours?

A Six.

Q And an equal number of auditors?

A That is right.

Q In view of the number of brokers, or broker-dealers and salesmen, do you think that is a sufficient number to properly control the operation of those dealing in securities?

THE CHAIRMAN: It should be.

MR. GRUMMETT: Yes.

BY MR. GRUMMETT:

Q You think your Department is well-staffed?

A Yes.

BY MR. JANES:

Q Do you ever go into an office without a report or suggestion that there is something wrong, but go in

just as a matter of principle, occasionally?

A I do not understand that, sir. Do you mean --

Q The auditors go in every so often?

A Yes.

Q And can go in any time they take the notion?

A Yes.

Q Do you go in on such occasions?

A No.

Q You do not go in?

A No.

Q Unless you are especially sent in?

A Yes.

BY MR. GRUMMETT:

Q So, when they see an auditor and an investigator come in, they know something is wrong?

A I think when an auditor and investigator walk into an office in Bay Street, they might feel a little uncomfortable at first.

BY THE CHAIRMAN:

Q Unless they are innocent?

A That is right.

BY MR. JAMES:

Q I suppose you have calls and complaints about certain brokers, and have found everything all right?

A Oh, quite often.

BY L.R. JOLLIFFE:

Q Do you have many complaints about unregistered salesmen recently, Mr. Cox?

A No, I cannot say very often.

Of course, Mr. Jolliffe, I do not receive the complaints. I only get those which are assigned to me, but I have never been sent down to an office, to the best of my recollection, other than in the Kaufmann manner, for the purpose of seeing if an unregistered salesman was there. I am, of course, speaking only for myself.

Q That does not sound as though it was very frequent?

A No.

Q What about complaints about the selling methods of salesmen? Have you been assigned to make investigations along that line?

A Yes; I would say that a number of complaints are

received about high-pressure methods. But unless the investigation shows the complaints are more or less justified, it is very difficult to prove that high-pressure methods have been used.

MR. JOLLIFFE: I think I know what you mean.

BY MR. JOLLIFFE:

Q Mr. Cox, I am not going to ask you any more questions, but this interests me. As a former police officer, I suppose you take some interest in your own "batting average"; have you kept any record of the number of convictions for which you have been responsible in the last five years?

A No, sir, I have not. I can only recall one. In the cases we have dealt with, there have been convictions in all cases except one, which was a charge of bribery, where the jury disagreed. On the second trial, the jury disagreed again. The case did not come to trial for the third time.

And two cases before the magistrates where a man was acquitted, and one case in a higher court where a man was acquitted. That was in the case I spoke about earlier, where we had charged three, one was acquitted, and two were convicted.

BY MR. GRUMMETT:

Q Have you any idea of how many cases you have in a year?

A I cannot answer that, sir, I cannot even hazard a guess at it. I have never actually counted up the number of cases we have worked on.

Q You do not prepare a statement at the end of the year showing convictions and acquittals?

A No; we keep a monthly progress report, which lists our cases we have in court, and formal investigations where an order has been issued, and cases which have been investigated without an order.

BY MR. HOUCK:

Q Do you get many calls outside of Toronto?

A A number of complaints come in from outside of Toronto, sir.

BY MR. JANES:

Q Have you investigated any brokers outside of Toronto?

A Yes, sir. Not very often, however. The bulk of them are right in Toronto, of course.

MR. JOLLIFFE: So I understand.

BY MR. GRUMMETT:

Q Centralized in one area?

A That is right.

MR. GRUMMETT: I have no further questions.

MR. JOLLIFFE: I have nothing further.

THE CHAIRMAN: Thank you very much, Mr. Cox.

---The witness retired.

THE CHAIRMAN: That clears us up for the afternoon. In any event, it is about a quarter past four.

THE CLERK: I spoke to Mr. Deering, Mr. Blackburn lives in Calgary, and cannot be available, but the broker, Mr. Deering, would be prepared to come here to-morrow morning.

THE CHAIRMAN: That may be done.

We will adjourn now until to-morrow morning at ten-thirty o'clock.

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---Whereupon at 4.10 of the clock p.m., the further proceedings of this Committee adjourned until Tuesday October 2nd, 1951, at ten-thirty o'clock a.m.

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ONTARIO

PROCEEDINGS
of the
SELECT COMMITTEE OF THE
ONTARIO LEGISLATIVE ASSEMBLY

APPOINTED TO ENQUIRE INTO AND REPORT
UPON CERTAIN MATTERS CONCERNING THE
ADMINISTRATION OF JUSTICE IN THE PROV-
INCE OF ONTARIO.



Vol. 26.

Tuesday, October 2, 1951.

3635 .

T W E N T Y - S I X T H D A Y

Toronto, Ontario,
Tuesday, October 2nd, 1951,
11:00 o'clock a.m.

- - - - -

The further proceedings of this Committee reconvened pursuant to adjournment.

All parties present.

Same appearances as heretofore noted.

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THE CHAIRMAN: Gentlemen, shall we proceed?

MR. HOUCK: Mr. Chairman, before we get started, I would like to have a short discussion amongst the Committee members, and perhaps a little guidance from yourself, about the future of this Committee.

I still think we have a lot of work to do. There are still some departments to cover, and I think we should have some guidance from you, or else through a small Committee appointed by yourself, with yourself on it, of course.

I think it was at the last meeting in August when I suggested, moved, and it was carried, that we invite Mr. Bigelow, Chairman of the Racing Commission, to appear before us.

I notice with some regret that has been dropped like a "hot potato" --

THE CHAIRMAN: Oh no, no "hot potatoes" about it.

MR. HOUCK: If I may finish, Mr. Chairman, There have been some convictions and some suspensions, and we decided to wait until it was over. I said that in some of the cases there will undoubtedly be appeals, and they might be held over for a year or so, and I think we should at once, Mr. Chairman, have Mr. Bigelow before us, and if you do not think he should come before us in an open meeting, we should at least have a conference with him, and see what is what.

Then the name of Mr. Roher came up, and nothing final has been arrived at in regard to Mr. Roher.

There are some other things I would like to discuss. I think we should have the Chairman of the Liquor Control Board before us, and the Chairman of the Hotels Department, and go into them quite thoroughly.

Then we have a report to get out by this Committee for presentation to the legislature.

THE CHAIRMAN: Of course, we discussed the agenda yesterday.

MR. HOUCK: Yes. Then as Mr. Vickers (Secretary)

said, we have the Law Society who are preparing a brief to present before us. I understand it is not ready.

THE CLERK: Not this week.

MR. JOLLIFFE: When will the Law Society be ready?

THE CLERK: I spoke to Mr. Smith, the Secretary, and he told me they could not be ready this week, because they had some correspondence from local associations, which I understand have been received, but the central committee had not had an opportunity of consolidating them. Apparently they had a meeting arranged, but it had to be postponed, and they said they definitely could not be ready this week.

Mr. Smith said if there was any urgency, we should let him know right away, and he would see if they could get it ready, if possible, for the next series of meetings, whenever they will be.

MR. JOLLIFFE: It does not look as if we can arrange to hear from the Law Society until they are ready. No doubt they have some work to do on the material which has come in.

With regard to the Racing Commission and Mr. Bigelow; I think myself we should meet Mr. Bigelow, but whether or not it would be appropriate at this point for

him to give evidence, I do not know. I would like to hear from the Chairman about that, but I would like to have Mr. Bigelow's own views, too. I think we should meet him and talk the thing over. I think Mr. Houck is right, we should at least confer with Mr. Bigelow.

THE CHAIRMAN: Mr. Bigelow has stated that he is at our disposal at any time.

MR. HOUCK: My own feeling in regard to this racing scandal is that the real culprits in this situation have not yet been apprehended. That is my own feeling.

THE CHAIRMAN: There is no reason why Mr. Bigelow should not come before this Committee at any time.

As mentioned before, of course, it was decided unanimously that in view of the work that was being done by the Commission at that time, it would be inadvisable perhaps to ask him about it, when charges were about to be laid, or were pending, and one thing and another.

MR. JOLLIFFE: That is right.

THE CHAIRMAN: The matter has not been brought up since then, until to-day. Since that time we have been fully occupied in what I think has been a very useful investigation into other matters.

MR. DONNER: That is right.

MR. HOUCK: I can^{go} along with you on that. If you do not want the meeting with Mr. Bigelow in public --

THE CHAIRMAN: I have not suggested that. I have never suggested anything in this Committee which should not be in public. I think that was one of the main functions of this Committee, to bring the light of day on any subject which comes before us.

MR. HOUCK: I would much prefer it to be in public, but I do not want to put Mr. Bigelow "on the spot",

THE CHAIRMAN: He can tell us if there is some particular case pending for the Court. I do not think that is what we are concerned about.

MR. JOLLIFFE: If it is at all possible, we want it in public. I think what Mr. Houck had in mind was that we did not want to undermine or sabotage any of the prosecutions which the Commission may have initiated by bringing out evidence from Mr. Bigelow, that it might not be wise for him to make public at the moment.

MR. VILLENEUVE: I think a public hearing is the only thing.

THE CHAIRMAN: I do not think there is much point in having a hearing that is not public. Certainly

I am not in favour of it.

MR. HOUCK: I would prefer it in public.

MR. VILLENEUVE: Would there be any harm in interviewing him?

THE CHAIRMAN: I will find out what his situation is at the moment.

MR. JOLLIFFE: If the Chairman would ask him to come and appear before us, then if it develops in the course of his testimony that there is something he would rather not make public at the moment, we can consider where we go from there.

MR. VILLENEUVE: That is right.

MR. JAMES: In regard to going into the report -- are we going into that or not? I would hope we would try to get a report ready on what we have done so far, when it is fresh in our minds, without having too much other stuff piling up on top of it. I had hoped we would start getting the report ready, on the "bookies" and the Securities Commission.

MR. DONNER: I think so, too. The Securities Commission will not be long, before we are finished, and it might be a good idea, as Mr. James suggests. We have been a long time with the Securities Commission.

MR. JOLLIFFE: Yes, and we were going to get the hon. Attorney General (Mr. Porter) to prepare a report at his leisure.

THE CHAIRMAN: I worked on that last night. I know exactly what the report will be, in a very few words.

MR. VILLENEUVE: I do not suppose it is open to try and condense that, before we start any other phase of it.

MR. HOUGH: My feeling about the Liquor Control is that I think to some extent we will find it is tied up with crime and gambling, in some respects.

Naturally, all the Committee members, especially the two lawyers, including yourself Mr. Chairman, are very busy men, but we should have some sort of an agenda prepared, so we will know what is what.

MR. JOLLIFFE: I think most of the attorneys-general, in recent years, were agreed that the enforcement of liquor legislation has been a major problem. I think we should make some enquiries about it.

THE CHAIRMAN: I think it was mentioned when the Provincial Police were giving evidence, that there was a man available then who was specializing in that sort of work, but for one reason and another, it was not

thought advisable for it to be considered at that time. We have been proceeding along very methodical lines.

MR. JOLLIFFE: That is right. We do not want to jump all over the place.

THE CHAIRMAN: We did not want to jump into another subject at that time.

MR. GRUMMETT: Then it was suggested we visit at least two or three centres in the province.

MR. DOWNER: It was also suggested we look over the Courtroom accommodations, if you want to go back to all these things.

MR. JOLLIFFE: I still want the Committee to go down to the Toronto City Hall as guests of the City of Toronto -- uninvited guests.

MR. JAMES: I would like to be home a little while this Fall, if I could.

THE CHAIRMAN: The Committee has had how many sittings, so far?

THE CLERK: This is the twenty-sixth session.

MR. GRUMMETT: And it has broken into eight weeks. This is the eighth week, and I do not think we

are half-way through. I mean by that that these sittings have broken into eight weeks, that is, eight weeks in which there have been sittings. And, as I say, I do not think we are half-ways through, looking at the work we have to do.

MR. JOLLIFFE: We have obtained some very helpful information from the people I described yesterday as the "official witnesses". I think from here on, we will have to exercise a little selection. Perhaps Mr. Houck, the hon. Attorney General (Mr. Porter, and I could give some thought to what we should receive. Certainly I think we should receive the Law Society. There are others I could mention, but we cannot hear everybody with a grievance.

MR. JAMES: No, or we would never finish up.

THE CHAIRMAN: As a matter of fact, there have been amazingly few individual complainants who have asked to come before this Committee -- very few. There have been very few requests from people who claimed they had suffered in some way or another, and wanted to draw it to the attention of the Committee, -- very few.

MR. DOWNER: It is not our function to seek out individuals, who lay charges. It is our function, as I see it, to hear representations and hear evidence, and

then bring in our report, in an endeavor to improve the legislation.

MR. HOUCK: I do not feel we are a prosecuting Committee; we are an investigating Committee.

THE CHAIRMAN: That is right. We want to get a full and balanced picture of the whole problem of the administration of justice, in all its phases. That is what we are here for.

MR. JOLLIFFE: I understand Major Lewis, (Clerk, Legislative Assembly) has received some letters. Were they turned over to the Secretary?

THE SECRETARY: I think any that came in were cleared through the Attorney General, and I think I have some individual ones here, but I do not think there are any who want to appear before the Committee.

THE CHAIRMAN: Perhaps it might be well to let the Committee look at these letters and see whether they give some lead to some type of enquiry. Very often these individual letters are very useful. Very often anonymous letters are very useful.

MR. JOLLIFFE: May I make a suggestion? I suggest we give the Secretary a little time ^{to put} these letters together, and we can look at them later in the

day.

MR. GRUMMETT: I think we ought to decide what we are going to do to-morrow and the next day.

THE CHAIRMAN: We have a witness for to-morrow.

THE SECRETARY: Yes, Mr. Kadesky will be available to-morrow morning.

MR. JAMES: Who is he?

MR. JOLIFFE: Louis Kadesky.

MR. VILLENEUVE: Are there any more after that in connection with the Securities Commission?

THE CHAIRMAN: Oh yes. Mr. Vickers, did you try to contact any others?

THE SECRETARY: I tried to get Mr. Frank Kaftell but his office did not know whether he would be back to-day or not. I will get in touch with his office later on.

I think that is the story.

MR. HOUCK: We probably will not be sitting next week, will we, Mr. Chairman?

THE CHAIRMAN: If you suggest we do not sit, that is satisfactory to me.

MR. JANES: That is quite agreeable to me.

THE CHAIRMAN: You were full of ambition a few minutes ago.

MR. HOUCK: I was thinking of Mr. Grummett and the other two lawyers.

MR. DOWNER: If we are going to get on, we must sit more than once a month.

MR. HOUCK: Oh yes. Once a month, but Monday is Thanksgiving Day, and Friday the Princess arrives.

MR. DOWNER: It is a pretty busy week, no doubt.

MR. GRUMMETT: The week after that, why not go through the whole week?

MR. JOLLIFFE: If Mr. Janes, Mr. Villeneuve, Mr. Grummett and Mr. Downer are coming in for the Royal visit, we might as well meet here the latter part of next week

MR. DOWNER: I think so, too. We have to be here anyway.

MR. VILLENEUVE: It does not matter to me. I do not want to put anybody out

MR. JANES: I am tied up next Wednesday and Friday of next week.

MR. HOUCK: I will come any day the Commission wants to sit.

MR. GRUMMETT: So will I.

MR. JOLLIFFE: So will I.

MR. JAMES: I will come the first two days.

THE CHAIRMAN: In next week, Monday is Thanksgiving, and on Friday the Princess arrives.

MR. DOWNER: After all, we cannot all be here all the time. There are the odd days some of us will be away anyway, and we should carry on, on that basis.

MR. JOLLIFFE: Would it satisfy Mr. James and Mr. Villeneuve better if we met on Monday following the dinner, because we will be here Saturday night anyhow. It might take us until Monday morning to recover.

MR. VILLENEUVE: I would like to know in advance. I can always make arrangements. Monday is a bad day for me to be away from my business, but I can make some arrangements.

MR. JAMES: I think Monday, the 15th, would be a good day.

MR. GRUMMETT: And go through for the full week.

MR. JAMES: Yes, until Saturday night, as far as

I am concerned.

MR. GRUMMETT: The only thing is, it takes me nearly a day travelling.

THE CHAIRMAN: Oh, you enjoy it.

MR. GRUMMETT: Not "enjoy"; I do not like train rides.

THE CHAIRMAN: You come down at night and have a good night's sleep, but you always seem to awaken when you arrive here. I think sometimes it would be better if you were a little more soporific.

MR. HOUCK: I move that we meet on October 15th and sit right through the whole week, from Monday through Friday.

MR. GRUMMETT: I second that motion.

Motion agreed to.

THE CHAIRMAN: Is there anything else you wish to discuss before we proceed with Mr. Deering? Is there anything else on the agenda? We have a witness to-morrow, and with the possibility of some for Thursday, if we can get these other people.

THE SECRETARY: We might get Mr. Raftell.

MR. HOUCK: You will know by to-morrow?

THE SECRETARY: Oh, I think so.

MR. GRUMETT: Would it be all right, if we cannot get Mr. Kaftell for Thursday, to have Mr. Bigelow?

THE CHAIRMAN: I imagine we can get him almost any time.

MR. JOLLIFFE: We might be able to meet him tomorrow. Mr. Kadesky may not take all day -- or even this afternoon.

THE CHAIRMAN: I can get in touch with him when we break off, to see if he is available.

MR. JOLLIFFE: I think if Mr. Kaftell is not available this week, we should try and hear him on Monday, the 15th.

THE CHAIRMAN: Is there anything further? If not, we will proceed with Mr. Deering.

WILLIAM ALLAN DEERING, a witness being called and duly sworn, who testifies as follows:

BY THE CHAIRMAN:

Q. Mr. Deering, you are a licensed broker-dealer?

A. That is right, sir.

Q. And you carry on business in the city of Toronto?

A. That is quite true.

Q. Now, the real purpose in asking you to come before this Committee -- and I think I am expressing the views of the Committee -- was this; you have been engaged in some transactions where there has been a middleman.

A. Quite true.

Q. Who is sometimes rather vaguely called a "promoter" or "middleman"?

A. That is right.

Q. And we have heard a great deal of comment from different witnesses about the position of the middlemen in these transactions, and we wanted to get some first-hand information as to just how they fit in to a speculative stock promotion in the distribution of stocks through the broker-dealers to the public.

I do not know whether I have expressed that quite fully and accurately. If not, before we go any further, if any member of the Committee would like to add anything to that, now would be the time, because I think it is fair to Mr. Deering to give him some idea that, in the first instance, we want to get some information.

MR. JOLLIFFE: Perhaps it would be fair to give him this background.

BY MR. JOLLIFFE:

Q. You happen to be the first broker-dealer who

has been invited here as a witness. I think it is only fair that I should tell you the reason.

When Mr. Lennox was giving evidence, and I believe also in Mr. McTague's evidence, we asked a number of questions about the functions of the middlemen and underwriters, who were not broker-dealers. I do not think we were able to find out very clearly what that function now is, so, therefore, according to some of us, the best way would be to ask a broker-dealer, who was active in the business to appear before us, and it so happens, that in the latest issue of the Securities Commission's bulletin, and among the new issues reported in a summary way, is that of the Western Potash Corporation, Limited, which I understand to be one of your issues.

A. Yes, I am acting as agent.

Q. We will come to that in a minute. But the description of this issue indicates that this is an example of the middleman in a new issue. No doubt you have seen that summary?

A. Yes, I have read it.

Q. That being the one which popped up in the bulletin, it seemed reasonable to ask you to come and tell us all about it, what it means, and why there is any middleman.

THE CHAIRMAN: I may also say that nothing has

been suggested in any way to discredit this issue, or any of your activities at all. We thought, in view of the fact that you have been involved in this sort of a deal, you could give us some sort of general information.

A. Yes, I understand.

Q. As I understand it, on the face of it, this deal has been apparently acceptable to the Securities Commission, and there is no question about that in any way, and I do not want you to think we have anything else in mind beyond the sort of information we are asking for.

MR. HOUCK: In no way is Mr. Deering held under suspicion.

MR. DOMNER: By no means.

THE CHAIRMAN: Oh no. On the contrary, the deal was really picked out, because it looked like a good, legitimate deal in the first place, and we wanted to find out the machinery by which it was worked.

(Page 3653 follows)

That is really what we had in mind. I think that is what Mr. Jolliffe suggested yesterday.

MR. JOLLIFFE: Yes, that is right. I would suggest that possibly one way of going about it would be to have Mr. Deering tell us in his own words just how this deal was arranged, starting at the beginning.

THE WITNESS: Any views I have are only my own, as far as the functions of a middleman are concerned.

On the question of the Western Potash; I met Mr. Blackburn, the middleman, or, as we know him, the "promoter", some time in the latter part of last year. At that time the Potash was brought up, and it sounded interesting, and like a snowball rolling, it seemed to get bigger and bigger all the time.

I came to a suitable arrangement with Mr. Blackburn, what I considered suitable, from the company, from the geologist, and from the prospectus when it was in the stage of being prepared.

That actually is just how it happened.

BY THE CHAIRMAN:

Q Are you the agent for selling the stock?

A I am only acting as agent for the distribution.

Q For the promoter?

A That is right.

Q In other words, the promoter takes down the stock from the treasury?

A That is right, and pays me a commission.

BY MR. HUCK:

Q And you have salesmen working for you?

A Yes. My job is to sell shares. As far as the middle-man is concerned -- the promoter -- I found it very helpful, because I am more or less attached down here, as a family man, and having my business in Toronto, so I cannot jump all over the country, and I am not as well known in the mining field as I might be, and hope to become in the future, but, as far as a promoter is concerned, they have been around for many years, and they know the geologists and mining engineers, and various company's officials, and it is through them that these deals are formulated.

They do spend a considerable amount of money, which I could not afford, in looking over the properties, hiring geologists, and so forth, before the company is even formed. I am speaking of that type of company in the mining or oil business.

BY MR. JOLLIFFE:

Q You met Mr. Blackburn in the latter part of last year?

A That is when I first met him.

Q And at that time, I gather, the company had not been incorporated?

A No. I was simply approached and told about the hoped-for plans for this company, and finding out that much, I became very interested in it at that time. I gathered information as it was available to me, as I stated before.

Q Did you meet Mr. Blackburn here in Toronto?

A Yes, I met him in Toronto.

Q This is a case where the property involved is out west, and I suppose the operating headquarters would be out west?

A The field office is right on the property, at Unity, Saskatchewan.

Q But the company is an Ontario corporation?

A That is quite true.

Q It is an Ontario company?

A Quite true.

Q And the financing has been arranged here?

A Quite true.

Q You speak of yourself as an "agent" for the sale of shares to the public on a commission basis?

A Technically speaking.

Q Do you sell to the public as a principal or not?

A No, as an agent.

Q As a broker-dealer, the shares are offered by your firm?

A That is quite true.

Q Was Mr. Blackburn a broker-dealer?

A No, Mr. Blackburn has no license to sell shares, stocks, bonds, and so forth.

Q And you say you were merely acting as his agent in offering these shares to the public?

A Yes.

Q Did that appear in your literature?

A It appears in the prospectus as filed with the Ontario Securities Commission.

Q Well now, who made the filings with the Ontario Securities Commission?

A The lawyer for the company.

Q On behalf of the company, or on behalf of Blackburn?

A I would say on behalf of the company.

Q The company has made no offer of these

shares?

A No, the company has made no offer of these shares.

Q Any approach there has been to the public has been through your firm?

A Through myself, yes.

Q Apparently, according to the Securities Commission's information -- and you will correct me if I am wrong -- what happened here was that under an agreement between you and the Company, dated April 6th, 1951, Mr. Blackburn agreed to purchase twenty thousand shares at fifty cents, which amount has been paid. That was an outright purchase, apparently, of twenty thousand shares for a price of ten thousand dollars. Is that right?

A Quite true.

Q Then, by the same agreement, he received from the company an option on another three million shares at the same price -- fifty cents?

A Quite true.

Q Payable at the minimum rate of 200,000 shares every thirty days, the first payment to commence on or before August 15th, 1951?

A Quite true.

Q Incidentally, just as a matter of curiosity, has that been met?

A These commitments are right up-to-date.

Q They have been exercised?

A Yes.

Q I suppose on August 15th and September 15th?

A That is right.

Q They are two which have come due?

A Yes.

Q "By a pre-incorporation agreement, a group loaned the company fifty thousand dollars, interest free, for preliminary expenses, which amount is re-payable when sufficient capital is available. Ten thousand dollars of this amount has now been settled by the issue of 125,000 shares of the company's stock which are held in escrow."

Who made that figure? Was that shown in the prospectus?

A That is shown in the prospectus. Here is a copy, if you care to see it (document handed to Mr. Jolliffe).

Q Now, no doubt it is here, but I do not see it at a glance.

A I think it is on the second page.

Q Who was it who put up the fifty thousand dollars?

A Does it not say "the under-writer"? Oh, the fifty thousand dollars?

Q Yes, the pre-incorporation money.

A That had actually nothing to do with me. That was put up by two different other mining companies.

BY THE CHAIRMAN:

Q By "pre-incorporation money", you mean money spent on the property prior to incorporation?

A Prior to incorporation, yes.

BY MR. JOLLIFFE:

Q Apparently some preliminary work was done prior to incorporation, and the funds were obtained from two other mining companies?

A That is right.

BY THE CHAIRMAN:

Q It did not involve the public at all?

A None whatever.

BY MR. JOLLIFFE:

Q I see one is named the Bata Petroleum --

and what was the name of the other?

A I believe it is mentioned there (indicating).

Q Oh, yes, the Petromine Exploration and Finance Company Limited?

A Yes.

Q And that obligation apparently was partially settled later by the issuance of 125,000 shares?

A Quite true.

Q Then the company was incorporated -- I guess the company must have been incorporated before the agreement with Mr. Blackburn, and the prospectus is dated April 16th, 10 days after the agreement with Mr. Blackburn?

A Quite true.

Q There were a number of escrowed shares. I assume they were vendors' shares?

A Yes, they are, but they are all held in escrow.

Q One million, six hundred and twenty-five thousand shares out of five million shares were escrowed, subject to release with the consent of the company as follows:

"Five hundred thousand belonging to Bata Petroleum Limited, by April 6, 1956; one million belonging to Doctor J. O. G. Sanderson,

releasable upon termination of present treasury option; one hundred and twenty-five thousand sold to shareholders, releasable upon termination of present treasury option. Releases during currency of said option require consent also of optionee."

Doctor Sanderson is the president --

A Yes, of Western Potash Company Limited.

Q He is an engineer?

A Yes, he was the original scout and finder of the potash on the Bata property.

BY THE CHAIRMAN:

Q This property is in Saskatchewan?

A Yes, about twenty miles south of Unity, Saskatchewan. It is a very small town.

Q By the time we get through, some of the members may want to buy some shares.

A I hope they do. It is a good investment, believe me.

Q Doctor Sanderson is a man of very considerable standing?

A Yes, I have a brochure here which gives his title.

BY MR. DOWNER:

Q What are the shares selling for now?

A At the present time they are offered at one dollar per share, not to the public, to the Bata Petroleum, the Indigo Consolidated Gold Mines Limited, and the Petromine.

BY MR. JOLLIFFE:

Q You are not inviting the general public to buy these shares?

A Not at the moment.

Q At the present time, your offering is to the three existing companies?

A Yes.

Q And that is the Indigo Consolidated, Petromine, and Bata?

A Yes.

Q At what price?

A At one dollar per share.

Q This brochure which you have been good enough to produce, shows the directors and officials of the company, its Secretary-treasurer, Assistant-treasurer, Treasurer, auditors, and geologists.

Mr. Blackburn is not one of the officers of

the company?

A Definitely not; he is a middle-man, or as we call him, a "promoter".

Q His name does not appear there at all?

A Definitely not, but it does appear in the prospectus, which goes out to all shareholders.

BY THE CHAIRMAN:

Q I see, in addition to Doctor Sanderson, there are two people who have some technical qualifications, at least, they have very formidable initials after their names. For instance, Mr. Mellon, "M.E.I.C." What does that mean?

MR. JOLLIFFE: I think it is "Member of the Engineering Institute of Canada".

THE CHAIRMAN: Then he would be a fully qualified engineer. Then there is Mr. Whelihan, "B.A.Sc." I imagine that is "Bachelor of Science" of Regina, Saskatchewan.

BY MR. JAMES:

Q Out of the one dollar at which you are offering shares, the company gets fifty cents?

A That is quite true.

Q That seems to be quite a spread?

A No, it is not, if you will pardon me. I am allowed, under my agreement with Mr. Blackburn, a commission of twenty-five percent, and out of that twenty-five percent, I am thankful if I can clear one percent or two percent. The expenses are high; the over-head is high, and the advertising is considerable.

BY THE CHAIRMAN:

Q Let me ask you this; the promoter in this case apparently was instrumental in finding this property in the first place; in some way or another he got in touch with the possibilities of the development of this particular property?

A Quite true.

Q And through his association with some of the technical men, who had been working on it -- or otherwise -- at any rate, he became interested in the possibilities of this property?

A Quite true.

Q And he raised the initial amount of money which had to be put into the treasury to start the thing going?

That was his initial contribution to the enterprise?

A Yes, he promoted it, and raised the funds.

Q And he made, the arrangement, I suppose, for the incorporation of the company, and the deal which was eventually entered into, and getting in touch with you to act as broker-dealer?

A Quite true.

Q That was the function of the middle-man in this case?

A Quite true.

Q And having put up that initial money, which I suppose is highly speculative at that stage, investigating the whole matter, and bringing all the parties involved together, and getting the deal arranged, he gets a certain spread?

A That is quite true. There is considerable money of his own in it.

Q That seems to be the pattern, from my experience, at any rate, of the function of middle-men or promoters. Sometimes they do it in one way; sometimes they do it in another way?

A And there is no laid-down rule.

MR. JOLLIFFE: I agree with your description, Mr. Chairman, if it has been the functions of a promoter.

MR. JAMES: Is the promoter and the middle-man always the same?

THE WITNESS: Yes. Some call him the "middle-man"; we call him the "promoter".

THE CHAIRMAN: At any rate, he was not just a man who steps in between, and takes a certain share of the profits, and does nothing for it whatsoever? He was the instrumental factor in bringing together all the necessary parties to accomplish this transaction.

THE WITNESS: That is quite true.

THE CHAIRMAN: And getting it in such shape that it could be presented to the public, or the shareholders of the old companies first, and then later, perhaps, to the public, and making it possible for future developments? That really is the function of the middle-man, or promoter, or whatever you like to call him in this case.

THE WITNESS: That would be my explanation, sir.

BY MR. JOLLIFFE:

Q I want to be clear about that, because it

has been my impression that this enterprise was really Doctor Sanderson's baby. To what extent would you say Doctor Sanderson was responsible for getting the enterprise under way, and to what extent was Mr. Blackburn?

A I have never met Doctor Sanderson. Anything I could tell you now, would be merely hearsay.

BY THE CHAIRMAN:

Q Doctor Sanderson, of course, is not a financial man?

A Definitely not.

Q He would not go to get the initial money, and for that reason, he goes to somebody he thinks can raise it?

A I think that is true.

BY MR. JOLLIFFE:

Q Is it not a fact that at some point Doctor Sanderson put up some of his own money?

A I have heard that.

BY THE CHAIRMAN:

Q If he thought he was capable of putting up the whole thing himself, there would be no need to get

somebody else into the deal at all? Apparently he was satisfied, as far as he was concerned, to do it this way.

IR. JOLLIFFE: Then he wrote a long letter to the Ontario Securities Commission in June of this year. Perhaps the Committee would be interested in this paragraph of the letter:

"The writer has worked unremittingly since 1946, when the potash bed was discovered, to assist Data to secure a workable lease contract on the potash area, from the Saskatchewan Government. A temporary reservation of it was obtained late in 1949, but this had to be relinquished, because the Government could not find or agree to such terms, but chose, rather, to offer the potash leases for tender.

After considerable further expense was met, including necessary trips to Montreal, New York, and Washington in late 1950, the present reservation and development contract was obtained from the Government in February, 1951."

Then he goes on to discuss the work behind all oil companies looking for oil and gas, and he suggests

something about the geology of the area.

THE WITNESS: May I ask what is the date of that letter?

MR. JOLLIFFE: That letter was written to the Ontario Securities Commission on June 8th, 1951.

THE WITNESS: The facts you read out are quite true. The money had been raised at that time. He did not mention the names of those from whom he raised the money.

BY MR. JOLLIFFE:

Q He said, "has caused to be provided".

A Yes.

Q Who actually put up the money? The three companies you mentioned?

A The three companies I mentioned, and also the under-writer.

Q The fact that they put up that initial money, is why you made an offer to the three companies?

A Yes; they were given the preference.

Q That seems logical. I take it on the whole, they are people who have already done business with you?

A That is quite true -- clients.

Q And the overhead would not be too high in canvassing people with whom you have already done business, and people who are already shareholders in the three companies -- the issues you have sponsored? You would not have a high overhead there?

A Considerable, considering the number of correspondents or clients I have.

Q Your deal with Mr. Blackburn was that he took down stock from the company at fifty cents, and you sold it at one dollar, and your remuneration is twenty-five cents a share?

A Twenty-five percent at that time, it would be twenty-five cents a share, yes.

Q Twenty-five percent of the retail price?

A Yes.

Q So, at one dollar, it would be twenty-five cents?

A Yes.

BY MR. JAMES:

Q And Mr. Blackburn also got twenty-five percent?

A That is quite true.

BY MR. HOUCK:

Q Out of your twenty-five percent, you have to

take out the overhead?

A That is right, commissions, office expenses, advertising, and so forth.

BY MR. JAMES:

Q Did you not also get a large bloc of shares in the company?

MR. JOLLIFFE: That appears in the prospectus, I believe.

Mr. Chairman, it would appear to me, that in this particular case, Mr. Blackburn did not function as a middle-man, in the sense that Mr. Lennox used that term, because Mr. Lennox told us that the Commission now allows a middle-man to make only one-half cent a share, so that I can only conclude that, from the point of view of the Commission, Mr. Blackburn's role in this promotion was not that of a middle-man, but in some other role? Does it sound that way to you?

THE CHAIRMAN: Yes, it does.

MR. VILLENEUVE: His take was excessive, by what they normally allow.

THE CHAIRMAN: No, not necessarily, because he

was in a different position than the sort of people Mr. Lennox, perhaps, was describing.

MR. JOLLIFFE: I do think that must be what the Securities Commission concluded; otherwise, I would not think these price spreads would be permitted.

BY MR. JOLLIFFE:

Q Incidentally, Mr. Deering, to be fair; your offered price was determined by the B.D.A.?

A Quite true. They authorized the price spread.

Q They wrote you a letter?

A Yes, I have a copy here.

Q Offering you a maximum offering price of one dollar?

A Yes.

Q At this time?

A At this time.

Q Subsequently, they might authorize a higher price?

A In the option price, and the company acted accordingly.

Q Did it go up?

A Yes, it is in your prospectus.

THE CHAIRMAN: It starts at fifty cents.

BY MR. JOLLIFFE:

Q Not according to what appeared in the Commission's Bulletin. That is the one thing which rather puzzled me in the Bulletin. The Bulletin says:

"Mr. Blackburn received an option of a further three million shares at fifty cents."

A Only until such a date.

Q Three million shares were most of the shares of the company. What does the prospectus say?

MR. GRUMMETT: Five million shares.

MR. JOLLIFFE: And what are the prices of the three million shares?

MR. JAMES: It looks as if there is an agreement between the broker and Mr. Blackburn. They got one and one-half million dollars out of it.

A They were not selling those shares, but taking into consideration --

BY THE CHAIRMAN:

Q It costs money to sell shares.

A Yes, quite true. If I can clear one percent, two percent or three percent, I am fortunate.

BY MR. JOLLIFFE:

Q Here is what is said in the prospectus:

"Particulars of underwriting and option agreements: The Company has entered into an underwriting and option agreement with Harry Blackburn, R2821, 28th St. W., Calgary, Alberta, dated the 6th day of April, 1951, whereby the Underwriter agrees to purchase 20,000 shares of the Company's stock at the price of 50¢ per share (which amount has been paid) and whereby options are granted to the Underwriter on an additional 3,000,000 shares at the price of 50¢ per share to be exercised at the minimum rate of 200,000 shares every 30 days, the first payment to commence on or before the expiration of 90 days from the date upon which the Prospectus of the Company is accepted for filing by the Ontario Securities

Commission, but at any event, before August 15th, 1951. The Underwriter is acting solely in his own behalf in this agreement. If default occurs in the exercising of any options, an amended statement will be filed with the Securities Commission within twenty days after date of such default, provided the Company is still engaged in primary distribution.

To the knowledge of the signatories hereto, there are no sub-option or sub-underwriting agreements in existence and if such is entered into, the Prospectus will be amended accordingly."

What is the correct term for your agreement with Mr. Blackburn? Is it a sub-option agreement?

A No. I simply have an agreement.

Q An agreement to sell on commission?

A That is right, just the agreement only.

Q Then this prospectus goes on to say:

"The under-writer proposes to effect a distribution of the shares of this company by the sale of the same through registered broker-dealers or brokers, and to pay a commission on the sale of the same, which said commission shall not

exceed twenty-five percent of the selling-price of the shares to the public."

Well, according to the prospectus, you see the price is a flat fifty cents.

A At this time it is, until such time as there is a default.

Q Where does the agreement say that? Until there is a default?

A That is right.

Q It is presumed the company would be free to write a new agreement with somebody else.

A Anybody they wished to.

Q Do you think if this option lapsed, they would be able to write another one at a higher price?

A Undoubtedly they would.

Q The fact that the option lapsed; would that not be an indication that the under-writer could not market the stock, and it was not going as well as he hoped?

A Quite true.

Q Then what chance would there be for making another agreement with somebody else at a higher price?

A That is a question I cannot answer. That is up to the company itself.

THE CHAIRMAN: The fact is, it was the deal.

MR. DOWNER: That was the deal, yes.

THE CHAIRMAN: And if there is default in those options, the way is open for a new deal if one can be arranged, and nobody knows what that deal might possibly be, I suppose.

MR. GRUMMETT: The distribution of the shares of these three companies is limited to a sixty-day period?

THE WITNESS: That is right.

BY MR. GRUMMETT:

Q And then --

A There will be a new option made at that time. As a matter of fact, they are under consideration at the present time. My lawyer is working for me on a new option with an under-writer.

Q Will you offer the shares to the general public at that time?

A Yes.

BY MR. JAMES:

Q It looks like a funny way of doing business.

These three companies were developing this property, and they turn around and pay somebody fifty cents to sell it back to them.

THE CHAIRMAN: No, they do not. It is a distribution to the shareholders of this company, and the shareholders of that company would have to be sold with the idea of buying. It is not the company's money which is being used at all.

MR. DOWNER: In other words, those three companies put money into the initial exploration?

THE CHAIRMAN: Yes.

MR. DOWNER: And as a result of that --

THE CHAIRMAN: As a result of that, I assume they feel the shareholders of the company might be more interested than anybody else, and they gave them the first opportunity of taking them up. But they will have to be sold on the whole idea. I think that is a perfectly sound way of selling shares. I think that would be the best bet. You are selling to people who know about it. You are not going out to people who do not know anything about it at all; you are not going to the public at all. You are going to

the people who know.

MR. JANES: Why could those companies have not done that themselves, and saved themselves that one and one-half million dollars?

THE CHAIRMAN: They might have to go out and persuade the shareholders to buy. They could not do that for nothing.

THE WITNESS: That is true.

MR. JOLLIFFE: Perhaps they needed more capital.

THE CHAIRMAN: And they perhaps needed more capital, which they got from the promoter, and he took his chance on that, you see. We are not in a position --

MR. JANES: I am not saying there is anything wrong, but it does seem to be a funny way of doing business.

THE CHAIRMAN: I do not think it is a funny way of doing business at all.

MR. DOWNER: It looks like a legitimate way of doing it.

THE CHAIRMAN: It is a very sensible way of doing it.

BY MR. JOLLIFFE:

Q It may be quite practical, but I want the facts.

The next paragraph confirms what Mr. Deering has told us. It says:

"The distribution of the shares of the company through brokers or broker-dealers on the above basis is only for the special offering of shares to the registered shareholders of Indigo Consolidated Gold Mines Limited; Bata Petroleums Limited, and Petromine Exploration and Finance Company Limited, for a period of sixty days following the mailing of a registered letter to the said shareholders, giving them the right to purchase the shares."

BY MR. JOLLIFFE:

Q When did that letter go out?

A It was sent out on July 12th.

Q So the sixty days would be up before the

middle of September?

A The sixty days are up.

Q They are up now?

A No; we have twenty days' grace. It is not quite; we still have a few days.

Q Your twenty days of grace have passed by?

A The second lot.

Q More than eighty days have gone by since the 12th of July?

A I would say it is just to-day.

MR. JOLLIFFE: Then this goes on to say:

"Thereafter it is intended that the company will enter into a new option agreement with the said under-writer and optionee, providing for higher prices and a change in the manner of distribution, and an amending statement will be filed, providing the shares of the company are still in the course of primary distribution."

BY MR. JOLLIFFE:

Q Has there been any development of that kind?

A There is a deal going on at the present time,

as far as new options are concerned.

Q A new deal is being negotiated?

A At this time it should be completed, -- before the end of the week. At that time there will be a public offering made. At that time there should be a new prospectus, also.

Q Showing the change in the picture?

A Yes.

Q Did Mr. Blackburn have any connection himself with these three companies, Indigo, Bata, and Petromine?

A No, but he was instrumental in getting the deal, and seeing the money was placed with the Western Potash Corporation, in order to bring it into a corporation, and begin the development work, and make sure there was a actual potash underneath the ground.

That is what the money was used for. He did pretty good. Doctor Sanderson and his group, on the one hand, and the Bata group on the other hand.

I would not say he brought Bata together, because Doctor Sanderson was the President of the Bata, and they have the mineral rights for the potash from the Bata company. It is on their property, or on their leases -- their rentals. That is where the

company is located, and where the field is located.

Q That means that Bata has the oil rights?
The oil and gas rights, and the company has the mineral rights?

A Yes. In this instance, the potash, yes. The field covers ten square miles, which gives you an idea of the immensity of the company, or its project.

Q Where is Mr. Blackburn now?

A As far as I know, he is out in the west, in Calgary.

Q Is that his home?

A That is his home, I understand, yes.

Q When were you last in touch with him? My enquiry yesterday was, we should invite Mr. Blackburn to tell us about the role he played, and we were informed he was in Calgary. When were you last in touch with him?

A The beginning of July.

Q The beginning of July ?

A Yes. That is when I saw him personally.

Q Was he down here then?

A He was down here, yes.

Q When do you expect he will be here again?

A I really cannot say; I cannot give any definite date.

MR. GRUMMETT: Would he have to come down to negotiate the new agreement?

THE WITNESS: Not necessarily, no. That can be done through our lawyers.

BY MR. JOLLIFFE:

Q You have been selling stock, which was really his stock, since July?

A That is right.

Q What is the process? Is the stock issued to your nominees?

A I beg your pardon?

Q Is the stock issued to your nominees?

A No, the stock is issued to me when I pay for it through Mr. Blackburn's nominee in Toronto.

Q Somebody is authorized here to act for Mr. Blackburn?

A Yes.

Q Who is that?

A Mr. Nemin.

Q How do you spell that?

A "N-E-M-I-N."

MR. JOLLIFFE: Excuse me just a minute, Mr. Deering; I want to show the Hon. Attorney-General

(Mr. Porter) something on this file, and I want to speak to him about it later.

(Document handed to Chairman).

BY MR. JOLLIFFE:

Q Where is Mr. Nemin's office?

A Here in Toronto.

Q Where, in Toronto?

A At 200 Bay Street.

Q Can you give us the room number?

A I am sorry I cannot, right off-hand.

Q What floor is it on?

A I believe it is on the third floor.

Q You have been in there?

A In his office?

Q Yes.

A No, never.

Q Has he been in your office?

A Yes, he has.

Q Is he a lawyer or a broker?

A No, he is a not, -- merely a business man.

Q What is his occupation?

A A business man. I do not know exactly what he has to do, or at least what his position is.

BY MR. JANES:

Q Is he a middle-man, too?

A No, not to my knowledge.

BY MR. JOLLIFFE:

Q In taking down this stock, you must have had some dealings with Mr. Nemin?

A Oh, yes, that is quite true. I contact him by telephone.

Q To whom do you make your payments?

A The cheque is made out to Mr. Blackburn, and handed over to Mr. Nemin.

Q You make it out to Mr. Blackburn personally?

A Yes.

Q And you have made payments during the last eight weeks?

A Yes, I have.

Q Have you had any correspondence with Mr. Blackburn recently?

A No, I have not.

Q Have you had any correspondence with Doctor Sanderson?

A Not directly to me. I have, through the company.

Q What have you heard during the past two months about the progress of the company and its affairs, since I gather that most of its activities are out west, rather than down here?

A Considerably. I have had reports at least once a week. I have some here, if you would be interested in seeing them.

Q That is in relation to the work going on?

A Yes, and I also have figures of the work in process at the present time out there.

Q That is all right. I do not think we need that at the moment. You do not get letters directly from the directors?

A No, not directly.

Q Or any mention of the work progressing?

A No. I get letters from the company's office, here in Toronto.

Q What is Mr. Blackburn's occupation?

A As far as I know, he is a promoter.

Q A promoter?

A Yes.

Q You say he was down here in Toronto in July?

A Yes.

Q That is when you saw him?

A Yes.

Q Where was he staying then?

A At the King Edward Hotel.

THE CHAIRMAN: Shall we adjourn for five minutes?

MR. JOLLIFFE: I believe we might as well.

EXHIBIT NO. 146: Prospectus of Western
Potash Corporation Limited,
dated April 16th, 1951,
as produced and identified
by the Witness Deering.

---Whereupon a short recess was had.

---Upon resuming.

THE CHAIRMAN: Well, gentlemen, shall we resume?

BY MR. JOLLIFFE:

Q Just one or two more questions, Mr.
Deering. I understood you to say that when you make
your payments for stock, as I suppose you do from time
to time --

A Yes, that is quite true, as they are paid for.

Q You remit to Mr. Blackburn's nominee?

A Yes.

Q And his name is Nemin?

A Yes.

Q You do that through the mail?

A Usually in person.

Q You mean you deliver it yourself?

A No, I do not deliver it myself. It is usually picked up from his office, and the stock is delivered to me at that time.

Q And the payment is made by cheque?

A Yes, the payment is made by cheque.

Q Payable to whom?

A To Mr. Blackburn.

Q Not to his nominee?

A No.

Q You do not yourself know this person Nemin, personally?

A I know him.

Q You do know him?

A He usually comes over with the stock -- not always.

Q But he works at 200 Bay Street?

A Yes, he has an office there.

Q Are these the offices of Bata Petroleum?

A The offices of Bata Petroleum are there, too.

Q Is that where he works?

A I do not know where he works, or what he works at, but he has his office in that building, too.

Q For whom does he work?

A That I cannot say, I have no knowledge of that.

Q I take it you received authorization from Mr. Blackburn to make deliveries in that way?

A Oh, yes.

Q When was that?

A That was in June, I cannot tell you the exact date.

MR. JOLLIFFE: That is all, thank you.

THE CHAIRMAN: Are there any further questions?

BY MR. HOUCK:

Q Mr. Deering, this may not be a pertinent question, but does a promoter ever lose any money on these deals?

A Considerably -- at least, we have lost considerable sums of money.

BY MR. JOLLIFFE:

Q This is a question which perhaps the Committee will permit me to put to you, Mr. Deering, since you are the only man who is really in the business who had been before us.

We have been told that business is pretty slack lately. Is that your impression?

A I would not say it is "slack"; I would say it is "quiet".

Q Quiet?

A It is not up to expectation.

Q Are you speaking of the markets as a whole, the Canadian markets, or the American markets?

A I would say the market as a whole, as far as the broker-dealers are concerned. I am speaking of myself as an individual.

Q Both the Canadian and the American markets?

A Yes.

Q When did it become quiet?

A I would say for the last seven or eight months.

Q That tallies with the information we have already had?

A Yes.

Q How many salesmen do you employ?

A Seven.

Q Seven salesmen?

A Yes.

Q Do they spend most of their time inter-viewing customers, or telephoning customers?

A Telephoning, mostly.

Q Telephoning?

A Yes.

Q They do not go out on the road?

A They are not road salesmen, no.

Q But they are telephone salesmen?

A Yes.

Q Are they all telephone salesmen?

A Yes.

Q What are their working hours?

A Usually from ten o'clock in the morning, until eight or nine o'clock in the evening.

Q That is a long day?

A Yes, but they do not work six or seven days a week, it is a four or five-day week.

BY MR. DOWNER:

Q Are they all on commission?

A Yes.

Q Are you selling any other issue besides the

potash?

A At the present time that is the only one I am interested in selling.

BY MR. HOUCK:

Q Are you a native-born Canadian?

A Yes, I was born here in Toronto.

Q Is a percentage of your business dealing in stocks in the United States?

A Both in the United States and in Canada?

Q Is the business from the United States falling off, too?

A Yes, oh, yes, considerably.

BY MR. JANES:

Q Do you telephone to the United States?

A Yes, I do telephoning to the United States.

BY MR. JOLLIFFE:

Q That is, your salesmen telephone people who have written in?

A Yes, that is right.

BY MR. DOWNER:

Q Did you ever have a fraud order issued

against you in the United States?

A Yes, I have.

Q What ones were you selling then?

A Indigo Consolidated Gold Mines Limited, and Western Potash Corporation Limited.

Q Both of them?

A Yes.

BY MR. JOLLIFFE:

Q Is it your understanding that was done in respect to literature or telephone calls? Which one -- or both?

A It just read "solicitation", so it could be both.

Q It could be either or both?

A Yes.

BY THE CHAIRMAN:

Q That is all you know about this order which was issued against you?

A Yes, that is the only thing.

Q You have never seen the order?

A In one instance I did, yes. In the State of New York.

BY MR. JOLLIFFE:

Q How was that brought to your attention?
Do these people communicate at all with the broker-dealer? Have you ever heard from the American authorities?

A You mean as far as a charge of fraud is concerned?

Q Whatever their charge is.

A Actually through the courts; never through the S.E.C. Is that what you mean?

Q Any American authority? You do hear from the courts?

A I have heard from the courts.

Q Do they send you a summons through the mail?

A Yes, they do.

BY MR. JANES:

Q A summons to court?

A Yes.

BY MR. JOLLIFFE:

Q They send a summons through the mail to you?

A Yes.

Q Calling on you to appear in an American court?

A Quite true.

MR. JOLLIFFE: That is interesting.

BY MR. JANES:

Q Did you appear?

A I did not, no.

MR. JOLLIFFE: Do you do that, Mr. Attorney-General?

THE CHAIRMAN: I cannot answer that, it never came to my attention. I suppose in the case of a motor accident where an American, driving in this country, might be charged with an offence, it is conceivable they might mail the summons and he appears or not, as he sees fit. There are certain types of summonses which are issued through the mail. But I do not know whether that practice has been carried on or not.

MR. JOLLIFFE: We do have such a thing as primary service -- that is, service outside the jurisdiction.

THE CHAIRMAN: In civil cases.

MR. JOLLIFFE: Yes.

THE CHAIRMAN: I suppose all that a summons would amount to, if sent through the mail to somebody in a foreign jurisdiction, would be a notice of the proceedings. There is no validity to it at all,

MR. JOLLIFFE: No, because the objection to the jurisdiction could always be taken,

THE CHAIRMAN: It is the same with witnesses living in the United States; they may be summonsed to give evidence at some trial which takes place here, but it is their option as to whether or not they will come.

BY MR. DOWNER:

Q You are just trying to sell your Western Potash to the shareholders of Indigo in the United States -- Indigo, Bata, or Petromine?

A No, I have nothing to do with the Petromine shareholders; just Indigo.

BY MR. JOLLIFFE:

Q Did **not** your offering go out to the shareholders of the three companies?

A That is quite true, it did.

BY MR. JAMES:

Q You are only selling to one group of shareholders?

A Excuse me, two groups; Bata and Indigo.

MR. HOUCK: I think the Press are being very fair, and I think they will continue to be so, by saying to their readers that the witness is not held under any suspicion, but is just here as a witness.

THE CHAIRMAN: Just to explain his position, yes.

MR. HOUCK: It would not be fair if the readers of the Press gained the impression that he was under suspicion here.

MR. JOLLIFFE: What we have here is not the sort of middle-man of which Mr. Lennox was talking, and I would say he referred to "promoters" as unlicensed people in the business. It seems to be

that type of thing, rather than the middle-man as referred to here.

MR. JAMES: But is that type of middle-man the one who is only allowed one-half of one percent commission?

MR. HOLLIFFE: I think we might ask Mr. Lennox to clarify that.

THE CHAIRMAN: Yes, that should be cleared up. My recollection of his evidence was that it was a case where some person in effect wanted to carry on the business of a broker-dealer without being licensed, and he did it through a broker-dealer. He really was not a promoter, in any sense at all. He simply used the broker-dealer as a "front" to carry on his own business.

MR. GRUMMETT: And he remained in the background?

THE CHAIRMAN: Yes, I think so. I may be wrong about that.

MR. JOLLIFFE: Mr. Lennox had an explanation of the role of a middle-man in earlier days, and I understood him to say that he did not know just

what they would be now, due to some changes in the tax law.

THE CHAIRMAN: That it was a device which in some ways saved them some taxes.

MR. JOLLIFFE: Yes, he mentioned that. In the Young case, back in January, 1949, there was the following:

"The full Commission found that they were sponsoring a system of options and sub-options which is fatal to the successful financing of any mining venture."

In that case there were price spreads which are now impossible, according to his explanation.

In that case, one broker took a profit of two cents -- I think his name was "Tom" Brown. Perhaps I had better read from the decision. It says:

"In the course of this particular financing, Bay Street Securities took a profit of two cents, Tom Brown, possibly a nominee of some interest or interests, whose identity is not disclosed, took a profit of fifteen cents without making any firm commitment. Young

selling to the public at fifty cents took a spread of twenty-three cents. Only ten cents found its way into the treasury out of every fifty cents invested by the public seventeen cents finding its way into the pockets of a person or persons who did nothing towards the development of the mine."

That thing was stopped by the one-half cent rule.

THE CHAIRMAN: Yes, that is quite a different thing from this -- quite a different thing.

MR. JANES: But even in this, only fifty cents found its way into the treasury.

MR. JOLLIFFE: Yes, one-half.

MR. JANES: That is good business; better than farming.

THE CHAIRMAN: In this business they not only attempt it, but they have to tell their customers and the whole world about it.

MR. JOLLIFFE: I would like to ask one or two further questions.

THE CHAIRMAN: Very well.

BY MR. JOLLIFFE:

Q One or two witnesses yesterday made some rather large claims about the money a broker-dealer has to spend in supporting the market. Have you had anything to spend in support of the market?

A This is an unsupported market.

Q You are not buying them back, to get people interested?

A Not at that time.

Q That is, the promoter?

A That is, until there is a public offering.

BY THE CHAIRMAN:

Q It is not listed at all?

A No; not even over-the-counter.

Q It would not appear in the newspapers amongst their listed stocks, nor would it appear in the unlisted section?

A That is right.

BY MR. JOLLIFFE:

Q Later on, when the public was offered at a price less than one dollar, you would have to step

and support the market?

A It might happen; I might have to.

Q Have you ever had that experience?

A No.

Q We were given to understand yesterday that it was common practice.

THE CHAIRMAN: I think it is a very widespread practice, where necessary.

MR. JOLLIFFE: Yes, up to a point. The law of diminishing returns comes into play somewhere.

THE CHAIRMAN: And sometimes very quickly.

MR. JOLLIFFE: Sometimes in a few hours, I think.

BY MR. JOLLIFFE:

Q How long have you been a registered broker-dealer?

A Since February, 1949.

Q Was your previous experience as a salesman?

A No; I was working in a brokerage house previous to that.

Q As an employee?

A As an employee, learning the business, after I

got out of the army.

Q But not as a salesman?

A Not as a salesman, no. I have never been registered as a salesman.

Q We have heard a good deal about the mail order business, and heavy mailings, particularly to the United States. Has your house engaged in large mailings?

A Only to the shareholders at this time.

Q You are speaking now of the potash issue?

A Yes. There were never any heavy mailings. It only went out to the shareholders, and clients of mine.

Q Your practice was to circularize people you knew about?

A That is true.

Q People who bought stock in the other companies?

A Yes. What I have attempted to do, is to work up a schedule. After all, that is the lifeblood of the business.

Q Then your mailings would be comparatively small?

A Yes.

Q And confined to shareholders alone?

A Yes.

Q How do you get that list of shareholders in these particular companies?

A It involves considerable work. This goes back over a period of two years. Do you wish me to explain it?

Q I wondered how they became accessible to you, unless they are all controlled by yourself, or by some person?

A When I was approached to handle this as a principal for the distribution of shares of Indigo Consolidated Gold Mines Limited, I told them I would be interested in the distribution of those shares, and from then on, I carried on and built up a clientele, and sold them stock.

Q And did you get the list of people?

A Yes.

Q How did you get the list of people to whom you wrote, in the first place?

A From the Indigo Company, because I was acting as their principal in the distribution of these shares.

Q Then you made an offering of these shares to people who were already Indigo shareholders?

A Yes.

Q Did you do the same with Bata?

A Yes. I was approached to handle Western Potash, and the Bata Shareholders were given a right to purchase in Western Potash before a public offering was made, at a one-dollar price.

Q And the same with Petromine?

A I have no Petromine shareholders, only the clients to whom I sold Petromine. Those are all that I have.

MR. JOLLIFFE: Thank you, very much.

THE CHAIRMAN: Are there any further questions?

(No response)

Thank you very much, Mr. Deering, for your co-operation.

---The witness retired.

THE CHAIRMAN: Now, the next witness is not available until to-morrow.

THE SECRETARY: Mr. Chairman, I have a list of correspondence which has come in, and I have arranged it in order here.

THE CHAIRMAN: I think we should look it over,

and see if there is anything in it which might give a lead for enquiry. Can we look at it this afternoon?

MR. GRUMMETT: Yes, I think so.

MR. JOLLIFFE: It is only fair we should give them a little time.

THE CHAIRMAN: Yes, because there may be some things which will give us further leads.

Therefore, we will adjourn until this afternoon at 2.30.

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---Whereupon the further proceedings of this Committee adjourned until this afternoon at 2.30 o'clock.

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A F T E R N O O N S E S S I O N

Toronto, Ontario,
Tuesday, October 2nd, 1951,
2.30 o'clock, p.m.

- - - - -

The further proceedings of this Committee re-
convened pursuant to adjournment.

All parties present.

Same appearances as heretofore noted.

- - - - -

THE CHAIRMAN: Gentlemen, shall we proceed?
What about this correspondence?

THE SECRETARY: Here (indicating) is a list
of correspondence which has come in, and which I have
here.

THE CHAIRMAN: What should we do with this?
Are these letters lengthy?

THE SECRETARY: Some of them are. The one
by Mr. Brailey was just asking for the opportunity of
presenting a brief.

THE CHAIRMAN: Suppose we deal with them in
the order they are presented here.

This letter from the Carman United Church, dated April 23rd, 1951, reads:

"This is to inform you that I have asked Major A. C. Lewis, Clerk of the Legislature, for an opportunity to present a brief to the Select Committee of the Ontario Legislature investigating criminal justice.

Yours sincerely,

(signed) F. W. L. Brailey."

He does not mentioned what aspect he has in mind.

MR. JOLLIFFE: I have not talked to Mr. Brailey, but I understand that he wanted to appear as representing one of the United Church Presbyterys in the Toronto area, and that he had been so authorized.

THE CHAIRMAN: Mr. Brailey wrote the Clerk of the Legislative Assembly, who replied as follows:

"I am in receipt of your letter of the 23rd instant asking permission to present a brief to the Select Committee of the Legislative Assembly of Ontario charged with the investigation of the administration of criminal justice in Ontario. In reply, I have to inform you that the Committee does not propose at present to hear individual

representations.

" If the United Church as a body desires to present a brief, the Committee will be pleased to receive it".

I do not recall how that came about. It may be that Major Lewis spoke to me about it, and I think our feeling was at that time we wanted to deal with some general matters before we came down to individual briefs, so it was more or less postponed, unless there was some presentation from somebody representing a few of the churches as a whole, if they cared to give it.

On the other hand, if this gentlemen wishes to present some brief, should we not consider it?

MR. JOLLIFFE: I would like to hear Mr. Brailey, Mr. Chairman, but on the merits. It does not seem to me that with the limited time at our disposal, ^{that} we should give some priority to the spokesmen for organizations, rather than an individual opinion.

THE CHAIRMAN: Can we leave it as it is now and say that we are not prepared to deal with it at the present time? There apparently has been no further communication from him.

MR. GRUMMETT: Put it aside in a sort of file, which we will hold in abeyance for future consideration.

EXHIBIT NO. 147: Letter Brailey to Attorney General April 23rd, 1951; letter, Clerk of Assembly, to Mr. Brailey, April 24th, 1951, Letter Brailey to Lewis, April 23rd, 1951.

THE SECRETARY: Here is one from a Mr. J. B. Chamberlain, dated April 4th, 1951, complaining about his confinement in Whitby asylum since October, 1946. It is a personal case, and whether it comes within the scope of this Committee or not, is doubtful.

MR. JOLLIFFE: I move it be deferred.

MR. VILLENEUVE: I second the motion.

MR. PORTER: I do not know whether I wrote this (indicating) or not or whether somebody else did. It was addressed to me and I probably answered it;

"I have read with interest your letter of April 28th. I am very much interested in the points you mentioned, and am sure that your views will be useful to the work of the Committee".

We will deal with that in due course.

Motion agreed to.

EXHIBIT NO. 148: Letter, April 28th, 1951, Chamberlain to Chairman; Letter, May 4th, 1951, Chairman to Chamberlain; letter, April 30th, Nicholl to Chamberlain.

THE SECRETARY: The thid is a letter from a Mr. Lester, from Ottawa, enclosing a duplicate memorandum and dealing particularly with inadequate court sentences, particularly in the Ottawa area.

MR. JOLLIFFE: I must say I do not know what his views are, but there is a real problem there.

MR. DOWNER: They were kicking about too heavy sentences, and now they say they are too light.

THE SECRETARY: I made a note that he does not ask for a hearing. The memo claims inadequate sentence enforced in two murder cases, and judges too prone to make allowances for accused, particularly if liquor is involved. He inveighs against liquor and governments that co-operate with liquor interests.

I think that was acknowledged by Mr. Nicholl and yourself.

THE CHAIRMAN: I do not know that it is within the province of a jury to go easy on people.

MR. GRUMMETT: I think the juries are more to blame than the judges or the magistrates.

MR. JOLLIFFE: If anybody is to blame,

MR. VILLERUEVE: I know one murder case which was pretty well hushed up and that was the Sullivan case.

THE CHAIRMAN: There was an acquittal in that case. It was not a question of sentence at all. Shall I read this letter?

MR. CRUMMETT: It might be very useful.

THE CHAIRMAN: This letter says:

" The conditions covered in the attached letter urgently need the attention of the Crime Commission.

These iniquitous conditions continue among many others. Decent citizens who were not brought up in the jungle are crying, "How long, oh Lord, how long." In the meantime respect for the law sinks lower than a well. Buck-passing is an admission of guilt. It seems to me that a lay-man could clean up in two months what some of our Judiciary have been gagging over for 10 years.

Let us give the law a blood transfusion. Only those influences mentioned in the attached letter are against it. We do not have to be robbed unless we want to be."

Then he has this document (indicating) which is somewhat of a circular brief he has prepared and it looks as if he has probably sent it to other people as well.

This says in regard to "Inadequate Court Sentences":-

" The almost complete breakdown in the administration of justice, particularly where murder and manslaughter is concerned, must pose a solemn and serious problem to observant and sane thinking citizens who rightfully look to the courts for protection. We live in a day when men call "evil" good and "good" evil. A day when Judges 17:6 might be justifiably translated".

I do not know whether you can help us on that, Mr. Downer?

MR. DOWNER: That is partially correct. He has changed it a bit.

THE CHAIRMAN: This goes on:

"In those days there was no "law" in "Canada" but every man did that which was right in his own eyes". Are we coming to that period again, when the administration of justice must be carried out by the relatives of the murdered victim? Has the getting away from fundamental spiritual standards warped our ability to reason clearly on these matters?

Scripture asks the question: "What will a man

give in exchange for his soul?". Drawing our conclusions from recent court sentences the Judiciary places the taking of life as a comparable or even lesser crime than that of robbing a bank, stealing groceries, breaking into a church, beating a man up, robbing summer cottages, abusing your wife, and so on ad infinitum.

The utter inadequacy of two recent sentences are but examples of the warped and twisted reasoning of the courts on this question."

I do not know what case that is.

"In the Halifax case, one wonders just what the criminal had to do to show "intent". Why does the crown attorney have to influence the jury by publicly stating "he" will be "satisfied" with a conviction of manslaughter, when circumstances point so evidently to cold, calculated murder? Why not let the jury decide that in due course? Is this not one of their duties? "

Do you know what case that was?

MR. JOLLIFFE: I wonder if possibly he is not referring to a case in which the mayor of Glace Bay --

MR. VILLENEUVE: That was in Sydney, Nova Scotia.

MR. JAMES: Where he drove over a man, and then backed up and ran over him again.

MR. VILLENEUVE: Yes.

THE CHAIRMAN: [Continuing reading]:

" In an Ottawa case the presiding judge commends the criminal's "courage" . What courage? The "courage" of a drunken sot, who, while with a woman other than his wife, ran down a decent and law abiding citizen in cold blood and drove off from the scene of the crime and who for fear of imminent detection gave himself up to save his own neck.

The crown attorney in the same case tells the jury that the prisoner was not really a bad fellow, but he was really a "bad boy" that night and a lot more that was puerile drivel! Life indeed is cheap. Small wonder there is contempt for law and order. The prisoner at the bar needed no defending attorney. The Crown's representatives looked after him well in every respect. No reference (at least from newspaper reports) to the slaughtered victim or his dependents since they, presumably, are more fortunate and will be able to cash in on the Unsatisfied

Judgment's Fund established by the Ontario Government. A kind of fair exchange is no murder basis."

He only mentions two specific instances.

MR. JOLLIFFE: I think we should defer the letter for further consideration.

THE CHAIRMAN: This is the Lester matter. I do not think I know him personally, although I do know a man by that name.

THE SECRETARY: Will that go into the record?

THE CHAIRMAN: I suppose that much of it could go into the record, yes.

MR. JOLLIFFE: Whatever the hon. Attorney General (Mr. Porter) read.

---whereupon the Chairman retired, and the gavel was assumed by Mr. Villeneuve.

MR. JOLLIFFE: I move that the letter from Mr. Lester be deferred.

MR. DOWNER: I second that motion.

Motion agreed to.

EXHIBIT NO. 149: Letter, April 25, 1951, Lester to Chairman; Brief dated March 31, 1950; Letter April 30, 1951, Nicol to Lester; letter Chairman to Lester, May 4, 1951.

THE SECRETARY: The next one is a letter from a Mr. Zavitz.

THE ACTING CHAIRMAN: This is written to Mr. Porter.

MR. JOLLIFFE: What is its nature?

THE SECRETARY: The note I have is that he wants to give evidence to substantiate charges that certain magistrates are unfit to sit on the bench. Also he states he is a British subject, of noble family, and kin to the King.

MR. JOLLIFFE: I move it be deferred.

MR. DOWNER: I second that motion.

Motion agreed to.

EXHIBIT NO. 150: Letter May 4th, 1951, Zavitz to Attorney General; Letter May 8th, 1951, Nicol to Zavitz.

THE SECRETARY: Then the next one is really two letters, with a note of mine on top, from Major W. B. Hamilton.

THE ACTING CHAIRMAN: Of 597 Bathurst Street, Toronto?

THE SECRETARY: In brief, he suggests this Committee should search beneath the surface of the present

unscientific and unjust civilization, and gives ten suggested causes for chaotic political affairs.

MR. JOLLIFFE: There are several reasons for chaotic political affairs around this table.

THE SECRETARY: He wants to submit a brief in support of his allegations.

I have had a couple of interviews with him, and I think he feels that the subject matter of his correspondence is not quite within the scope of this Committee.

MR. JOLLIFFE: Then Major Hamilton's main interest is in monetary matters, but I doubt if it is very relevant to our work.

I move it be deferred.

MR. DOWNER: I second that motion.

Motion agreed to.

EXHIBIT NO. 151: Letter Hamilton to Attorney General, April 30, 1951; copy of brief, undated; copy of letter May 2nd, 1951, Nicol to Hamilton; copy of letter, May 4th, 1951, Attorney General to Hamilton.
Letter Hamilton to Attorney General, May 7thm 1951.

THE SECRETARY: This one (indicating) is from Danny Daniels, which says:

"On behalf of Champion Publishing Association, publishers of Champion, all Canadian Youth paper, we, the under-signed, respectfully request the permission of your Crime Investigation Committee to appear before it in order to present a brief and offer further testimony on the relationship between comic books, and the incidence of crime in Canada."

I think the Chairman mentioned at one time he had heard from them. After they wrote, they gave me one copy of their brief, which has been submitted.

MR. JOLLIFFE: What do you suggest, Mr. Vickers, about it?

THE ACTING CHAIRMAN: There is some reference here to "M.P.'s", and "M.P.P.'s".

MR. JOLLIFFE: The Criminal Code was amended in regard to this matter. It is important, but what we can do about it, I do not know.

MR. JAMES: It is very important, yes.

THE SECRETARY: I gather it was aimed at the Ottawa committee reviewing the matter at that time. I

asked him if it would come within the scope of the Committee on the administration of justice here, and he said he thought it would, because in their opinion the present code, as amended, is not being stringently enforced.

MR. JOLLIFFE: Even as amended.

THE SECRETARY: That is what he said, but this goes beyond crime comics, into sex matters.

MR. JOLLIFFE: Do they indicate whether their brief was prepared prior to the amendment, or since the amendment?

THE SECRETARY: This was presented to the Toronto Board of Education on December 21st, 1950. I think the amendment was passed prior to that.

MR. JOLLIFFE: Yes, I think it was the 1950 Session.

THE SECRETARY: Yes. They refer to the amendment passed December 5th, 1949, so this brief is subsequent.

MR. JOLLIFFE: Do they complain that the law as it is now has not been adequately enforced in Ontario? Is there any complaint of that nature?

I understood him to say that it was not

completely enforced, but the main thing is it should be extended farther to cover other things like the sex comics.

MR. JANES: Of course, we are concerned about enforcement.

MR. JOLLIFFE: That is the provincial responsibility, or, in some cases, a municipal responsibility.

MR. JANES: It would not do any harm to hear them.

THE SECRETARY: They did indicate they would like to be heard.

MR. JOLLIFFE: Is this a newspaper, or an organization of some kind?

THE SECRETARY: It is called a newspaper, the "Champion".

MR. JOLLIFFE: Who publishes it?

THE SECRETARY: The Champion Publishing Association. The President is George Harris, Lovey Kolchin, Secretary, Danny Daniels, Editor, and Sam Michnick, Business Manager.

MR. JANES: The newspaper boys here might know something about that paper.

MR. JOLLIFFE: This is a Canadian publication.

Mr. Acting Chairman, I suggest that before we agree to hear this group, one or two enquiries might be made about them.

MR. DOWNER: Who they are, and what they are.

MR. JOLLIFFE: And whether this is just another publication, or is there any organization actually being responsible for the statements which are made? They make a great many statements. For all I know, they may have a substantial case, but I would like an opportunity to make some enquiry about the sponsorship before committing myself to hearing them.

MR. GRUMMETT: It may be just some interested people to get off a pet "beef".

THE SECRETARY: They inveigh against comics, but they go further, and refer to communism, and they go into racial discrimination.

MR. JOLLIFFE: And sex.

THE SECRETARY: It is a very wide field, and the crime end of it is of minor interest.

MR. GRUMMETT: It might be a "front", you see.

MR. JOLLIFFE: I move it be deferred pending further investigation.

MR. DONER: I second that motion.

Motion agreed to.

MR. JOLLIFFE: That does not mean that we are not interested in the comic book question. Personally, I am very much interested in it.

EXHIBIT NO. 152: Letter May 9th, 1951, Daniels to Attorney General; Copy of letter May 11th, 1951, Nicol to Daniels; copy of brief to Board of Education, Dec. 21, 1950, by one Fine; Secretary's notes thereon.

THE SECRETARY: The next one is the Law Society's request. That has been discussed by the Committee.

MR. JOLLIFFE: I would like to get that as soon as possible.

THE SECRETARY: I was talking to the Secretary of the Law Society, and suggested if possible he get his Committee to come to the meeting of this Committee on the 15th, and he said he would send a note to the Chairman.

He said Mr. Sedgwick was preparing the data.

He asked if the 15th was their last chance, and I said I could not say as to that, but I think the Committee should like the opportunity of hearing from them.

MR. JOLLIFFE: Oh, very much.

THE SECRETARY: The next is from Sam Oshanek. He requested to be subpoenaed to give evidence concerning justices of the peace, magistrates and police protecting criminals, accepting bribes, and intimating witnesses. Claims he has letters and photostats to support his charge.

MR. DOWNER: I move it be deferred.

MR. JOLLIFFE: I think it might be deferred, although I might say in connection with witnesses -- and perhaps the Secretary might be good enough to make a note of this, because I overlooked it previously -- I would like to have Mr. Magone come back again for the purpose of discussing witnesses, particularly Crown witnesses, and their attendance fees and expenses.

It has come to my attention since Mr. Magone testified that there is still some difficulty about that. Cases arise where a citizen is subpoenaed to give evidence in a criminal matter. It is true, he got a fee, which was increased some years ago, but apparently in some cases, the fees are not only inadequate, but there is a long delay

before the witness gets his fees and expenses.

Perhaps, by coincidence, since Mr. Magone has testified, we have had a number of complaints about this, and I think we should look into it.

I am disturbed by an unwillingness on the part of a good many witnesses to appear as witnesses, and I think this matter of fees and expenses has something to do with it. They are afraid of losing their time and money, and probably never get paid.

MR. GRUMMETT: The natural tendency you would think would be to remain at the scene of an accident until the police arrive, but the general tendency now is for them to walk away, rather than become involved.

MR. JOLLIFFE: They have the same idea as the Bell Telephone Company.

MR. JANES: No responsibility.

MR. JOLLIFFE: I know there have been some hit-and-run cases where drivers could have been apprehended if the witnesses had not run away. It seems to me that they are almost as bad as the man who was driving the car.

MR. DOWNER: I have had a number of complaints on the slowness of the justices of the peace in regard

to their fees. It is months and months before these fees are paid.

MR. GRUMMETT: That would rest with the auditor of Criminal Justice Accounts.

MR. JOLLIFFE: There is an auditor up here to audit all those accounts.

MR. DOWNER: A delay of six or seven months is too long. That means that possibly we will need Mr. Magone again, and perhaps the auditor of Criminal Justice Accounts.

MR. JOLLIFFE: Well, to complete the matter, I will second the motion by Mr. Downer that Oshanek's letter be deferred.

Motion agreed to.

EXHIBIT NO. 153: Letter and Envelope, May 17th, 1951, Oshanek to Secretary of Committee; copy of letter May 22nd, 1951, Secretary to Oshanek; Secretary's note thereon.

THE SECRETARY: The next item -- there is no correspondence with it -- but there was a chap named Humphrey, an inmate of York County Home, Yonge Street,

Newmarket. He said he wanted to give evidence about a personal case, where he claimed the Long Branch police neglected to protect his belongings. I suggested he contact the local police through his local member. Since then, I have not heard anything further from him. It is a personal case.

MR. GRUMMETT: I do not think we could hear those who want to make personal complaints. What we want is the general picture, not individual personal complaints. We would be kept here indefinitely otherwise.

MR. DOWNER: I move it be deferred.

MR. JOLLIFFE: I second that motion.

Motion agreed to.

MR. GRUMMETT: There are always some who feel offended. We cannot please everyone.

THE SECRETARY: There is a letter from Mr. Fred A. Poulton, Secretary, the Christian Social Council of Canada, the Canadian Council of Churches.

It is addressed to the Honourable Dana H. Porter, and enclosed a brief, a copy of which was sent to the Committee. It was in connection with the gambling in Ontario.

MR. JOLLIFFE: Are they satisfied with the

distribution of the brief, or do they wish to appear?

THE SECRETARY: He just wants the brief in, and hopes the recommendations will be taken into consideration.

I called his office to see if he wanted to appear, but the brief is here, and I was wondering what the Committee would like to do with it.

MR. JOLLIFFE: Did we all see it?

THE ACTING CHAIRMAN: I remember getting a copy of it.

THE SECRETARY: He says repeatedly that gambling is an increasing menace, and leads to other evils, and is controlled by organized groups. He says that gambling is anti-social; racetrack gambling in Ontario is too extensive, and the number of racing days should be reduced. He says that gambling on harness racing at Dufferin is too extensive, that the Criminal Code should limit days of racing to 14 in one place.

He says the extention of legalized gambling would lead to increased evils; that lotteries, and raffles should be banned, even for Churches, and urges honest, efficient, law enforcement and urges legislative action to protect the people from those who would exploit them for profit.

MR. DOWNER: Good for him.

MR. JOLLIFFE: Mr. Downer agrees with him.

MR. DOWNER: Surely. I do not think it makes any difference as far as horse racing is concerned; if they limit it to 14 days in one place, they would have it in more places.

MR. HOUCK: Was that brief submitted on behalf of the United Church?

MR. JOLLIFFE: It is a joint body.

MR. DOWNER: The Canadian Council of Churches.

MR. JOLLIFFE: Perhaps it should be said for the record that the Christian Social Council of Canada contains the following representations, that is to say, the following churches are represented on the Council:

"The Baptist Federation of Canada.

"Churches of Christ (Disciples)

"The Church of England in Canada.

"The Evangelical United Brethren Church.

"The Presbyterian Church in Canada.

"The United Church of Canada.

"The Salvation Army.

"The Society of Friends";

and

"The National Council of the Y.M.C.A."

This letter is from the Department of Social Relations of the Canadian Council of Churches.

MR. HOUCK: I think that is a brief we could be well advised to hear.

MR. JOLLIFFE: It is the kind of brief we should consider. I do not know about to-day.

Was there any thought given, Mr. Secretary -- do you know -- of the possibility of the Chairman finding out whether Mr. Bigelow might be available to-day?

THE SECRETARY: I have not seen him to speak to him. I rather would assume he is not available to-day but he would probably be here. He was contacted to see if he could be available this afternoon or to-morrow morning or perhaps on Thursday afternoon.

Mr. Acting Chairman, should the brief be put into the record, or just filed?

MR. JOLLIFFE: Mr. Vice-Chairman, until the complete dealing with the correspondence, I move it be read, and if necessary, be discussed later.

MR. HOUCK: I second the motion.

Motion agreed to.

EXHIBIT NO. 154: Letter May 25th,
1951, Poulton to Attorney
General; copy of letter June
5th, 1951, Attorney General to
Secretary; brief on "gambling
in Ontario", undated, which is
in words and figures as follows,
to-wit:

(Page 3733 follows)

"Dear Mr. Chairman and
Members of the Select
Committee of the Legislature
Investigating Criminal Justice in Ontario:

On behalf of the Churches and organizations which are represented in the Christian Social Council of Canada (Department of Social Relations of the Canadian Council of Churches) we wish to congratulate the Ontario Government on its establishment of this Select Committee of the Legislature inquiring into criminal justice in this province. We note with deep satisfaction that the Committee has been instructed to concentrate its attention on the detection, prosecution and prevention of gambling and attendant evils. This, we are convinced, is a step in the right direction, for gambling in this province has become a social and moral menace, and the dangers of it are becoming more threatening every day.

THE PRESENT SITUATION

In the past two years, in his annual reports to the Ontario Legislature, Commissioner W. H. Stringer has stressed the fact

that investigations by the anti-gambling squad of the Ontario Provincial Police reveal that illegal betting has become big business in this province. It has, in fact, become the principal, tax free, lucrative livelihood of many people. In 1950, according to Commissioner Stringer's testimony, requests from municipalities for the use of the Provincial anti-gambling squad reached a record-breaking number.

In addition, there have been the recent exposures in Toronto and Windsor which have helped to bring the whole gambling problem out into the open, so far as Ontario is concerned. Many of the evils which are inherent in all gambling have been clearly revealed. It is now plain for all to see that the business of gambling presents a menace far beyond the making and losing of small bets. It offers to organized groups the opportunity of gaining control over betting and all the vices associated with it, since gambling always tends to get itself tied up with other evils and crimes which no one would wish to defend. The entire history of gambling proves that it is the

enemy of personal integrity, of family welfare, of business honesty, of good government and of true religion.

THE CHURCHES' ATTITUDE

Community, national and international organizations are working today toward the creation of a just and sound economic order. Such an order will have to be based upon wise planning, general productivity, and a fair distribution of the goods produced. In a sound economic structure there is no place for gambling, since it is always non-productive. It has never made for a just distribution of goods, for many lose that a few may gain. Indeed, gambling has come to be one of the greatest contributory causes of the whole maladjustment of the economic life of our day.

The churches we represent believe that labour or human effort is the natural basis of the right of property, whereas gambling is the determination of the ownership of property by an appeal to chance or luck. The essence of gambling consists in an abandonment of reason, an inhibition of

the factors of human **control**. Gambling is also an attempt to get something for nothing. It is a denial of fellowship since it involves taking advantage of others, and profiting by their loss. The Christian ideal is the joy of service. The gambling ideal is an essentially selfish one. It seeks to take, and ever to take from others. It attacks not only the character of the individual gambler, but it also undermines the foundation upon which a progressive, healthy community must be built. Like cancerous cells which kill the human body by becoming a law unto themselves, gambling destroys the body politic which tolerates it.

Here is a situation which calls for United action on the part of all thoughtful people -- a situation which challenges the Christian Church to fulfil its duty as the enlightened conscience of the nation. The Church dare not maintain silence in the face of this evil thing which presents a very serious challenge to the essential principles of our democratic way of life, and is the antithesis of a Christian interpretation of

life and its responsibilities.

CONCENTRATION OF GAMBLING IN ONTARIO

The Churches represented in the Christian Social Council are seriously concerned over the concentration of gambling and gambling facilities in Ontario. For example, during the year 1950 nearly 41 per cent of the racing in Canada was centered in this province, with Ontario having 145 racing days out of a Canadian total of 356. In addition, more than 60 per cent. of the money going through the pari-mutuel windows was wagered in this province. Out of a Canadian total of \$53,469,032, Ontario bettors put up \$32,925,119 during the past year. Keeping in mind the fact that these figures represent only a portion of the amount expended on betting and gambling, since no accurate information can be secured regarding illegal off-track betting, or legalized on-track bookmaker betting, the present situation in Ontario becomes a matter for serious thought and prompt action. It is the considered opinion of this Council that the Ontario Government should move to reduce the number of days of race track gambling in this

province, as one point of possible advance against the gambling evil.

THE DUFFERIN SITUATION

We would also bring to your attention the daily harness horse racing with open bookie-non-taxable gambling at the Dufferin race track in Toronto. Throughout the whole of the fall and winter season ten races are run off each day of the week, with the exception of Sunday. Technically, these trotting and pacing races appear to be within the letter of the law, as set forth in subsection three of section two hundred and thirty-five of the Criminal Code of Canada. In actual practice, they are certainly contrary to the intent of that particular subsection, for while the harness racing meets are held under the names of various racing associations, most of them are controlled by the same group of individuals. These racing meets are not really a sport at all. Their main purpose seems to be to provide even wider gambling facilities for the people of Toronto and district.

The Christian Social Council, therefore, recommends that the Ontario Government urge

the Federal Minister of Justice to amend the Criminal Code (Race Meetings) by restoring to the proviso of subsection three of section two hundred and thirty-five the following words: 'and that no race meetings at which there are trotting or pacing races are held on the same grounds for more than fourteen days in all in any one calendar year.' Such an amendment would not interfere in any way with the average Fall Fair programme, but it would help to curb the activities of those interests whose main concern is the increase of betting and gambling facilities in Ontario.

RACING UNDER FLOOD LIGHTS

At this point, we wish to take the opportunity of commending the Premier and his Government for the stand they have taken in opposing the introduction of greyhound racing and flood lighted horse racing in Ontario. The promoters of these new forms of racing have tried to cloud the real issue again and again. But the fact remains that the main purpose of greyhound racing and flood lighted horse racing is to multiply

the present gambling outlets and thus introduce an extended form of mass gambling in this province. These types of racing are certainly not necessary in order to improve the breed of the greyhound or of the horse. They are sheer gambling devices, and any so-called benefits they may distribute are purely incidental to that central fact. Once again this Council voices a vigorous protest against any move to introduce greyhound racing and flood lighted horse racing in Ontario.

EXTENSION OF LEGALIZED GAMBLING

During recent months, the Churches we represent have been deeply disturbed by the suggestion made by some men in high places that there should be an extension of legalized facilities for gambling in Canada. Instead of urging better enforcement of the present anti-gambling laws, these people suggest certain amendments to the Criminal Code which would have the effect of relaxing the laws against gambling, and would permit the setting up of lotteries under government

supervision.

Those who advocate an extension of legalized gambling claim that it is very difficult to enforce any anti-gambling law, and that the creation of government-controlled lotteries would canalize the gambling instincts of the people, and thus reduce the menace of professional gamblers. At first glance, this looks like a very sane and sound argument. However, if a man is really interested in the facts regarding legalized gambling, there is a considerable body of data upon which to base his opinion. An unbiased study of history will show that legalization of gambling has done nothing to decrease either legal or illegal gambling, in fact, it has had the result of increasing both.

THE VOICE OF EXPERIENCE

Many nations have legalized national lotteries and sweepstakes. But over the years these have been gradually abolished, as nations and states, business men and members of Royal Commissions, political leaders and police officials, social service workers and clergymen have joined in the

attack against the evils which have resulted from the legalization of gambling. The story of the social effects of lotteries in countries where they have been tried does not make pleasant reading. It is the result of long experience of the evil consequences of gambling, in all its forms, that modern civilized states have promulgated laws to restrict and control it.

Those who think that an extension of legal methods of gambling will prevent an extension of illegal methods and practices would be well advised to read the May, 1950, number of 'The Annals of the American Academy of Political and Social Science' which is devoted entirely to a study of gambling in America and elsewhere. The Academy reported that 'various attempts at liberalizing the anti-gambling statutes by permitting only certain types of games have usually resulted in many abuses, and the law enforcement problems have increased tremendously.' According to Governor Thomas E. Dewey, of New York State, 'The entire history of legalized gambling in this country and abroad shows that it has

brought nothing but poverty, crime and corruption, demoralization of moral and ethical standards, and ultimately a lower living standard and misery for all the people.'

(Page 3744 follows)

" In the Province of Ontario all of the co-operating Churches represented in the Council have pronounced against subsection 6(b) of section 256 of the Criminal Code which permits raffles for prizes at any bazaar held for any charitable or religious object. Again and again we have appealed to the Federal Government to repeal this particular subsection. The Protestant Churches of Ontario deprecate resorting to gambling methods, no matter what form these may take, to secure funds for benevolent enterprises. The characteristic features of gambling do not disappear nor are they transmuted when raffles or lotteries are held for religious or charitable purposes. The mere act of bringing gambling into the Church will not make it right. It will simply give an air of respectability to what is really a vice.

The Christian Social Council is convinced that any extension of legalized facilities for gambling would be detrimental to the moral, social and economic well-being of the people of this province. The legalizing of lotteries would be turning back the clock to evil days. In the words of Virgil W. Peterson, Director of the Chicago Crime Commission: "Licensing of gambling is not,

has not, and never will be a substitute for the proper performance of duty on the part of responsible officials. It will never be a substitute for honest, efficient law enforcement. It will never take the place of proper respect for law and order on the part of the citizens."

In the light of these facts, this Council reaffirms its fundamental objection and unalterable opposition to any extension of legalized facilities for gambling in any form, under any auspices and for any purpose; and we call for progressive, honest and efficient law enforcement in respect to this social and moral menace.

NEED FOR LEGISLATIVE ACTION

The churches we represent stand ready at all times to support any positive action which the Government may take in an effort to curb gambling and its attendant evils in this province. We shall continue to develop an educational programme which will make known the facts and eventually inspire the action of an aroused majority. But, at the same time, we submit that sound legislative action is also required. The average intelligent citizen knows that properly enforced legislation relating to health, education,

and morals is conducive to physical, mental and moral betterment. Surely, therefore, the exploitation of a whole community is quite clearly an object of strong legislative action.

The gambling interests are well organized. They have money, and they spend it freely for the protection of their interests. This organized minority will control the situation if the majority who oppose the permission of organized gambling, in violation of the law, sit idly by and do nothing. We believe that people under a democratic system of government should be free at all times to determine their own personal habits. But we are just as insistent that the people should also be free from the pressure of organized and exploiting interests and groups.

This is where sound and sane legislation has its place in any well-ordered society. The Churches simply ask that the State recognize its duty in this matter, for without courageous leadership our democratic system is bound to fail. It is the duty and responsibility of the State to protect the people from those who seek to exploit them for their own profit.

All of which is respectfully submitted on

behalf of the Christian Social Council of Canada
(Department of Social Relations of the Canadian
Council of Churches)."

THE SECRETARY: The only other one is a
letter which came in the other day from a chap in
Richmond, Virginia, Mr. William S. Nash, complaining
about a purchase he made in certain securities.

On the Chairman's instructions, I referred
it to the Chairman of the Securities Commission for
a report, which was to go direct to Mr. Porter. I
do not know whether he has received it or not, but
Mr. Porter wanted to bring ^{it} in to the Committee for
consideration, when he had the complete picture from
Mr. Lennox.

I would think it might be well to leave that with
Mr. Porter. I think he wants to bring it in himself.

(Page 3748 follows)

EXHIBIT NO.155: Letter -- to
Attorney-General, September
25th, 1951.

THE SECRETARY: That is all the correspondence and representations which have come in so far, as far as I know.

MR. JOLLIFFE: You did not get a letter from a man out at Milton, regarding the law enforcement over the years in Halton County?

THE SECRETARY: No, Mr. Jolliffe.

THE ACTING CHAIRMAN: I think we should recess for five minutes.

MR. JOLLIFFE: Yes, that will be a good idea.

---Whereupon a short recess was had.

---Upon resuming.

THE ACTING CHAIRMAN: Gentlemen, we will proceed. Mr. Magone has appeared before us.

- - - - -
CLIFFORD R. MAGONE, K.C.

A witness previously heard, and now recalled, who, having been already sworn, continues his testimony as follows:

BY THE ACTING CHAIRMAN:

Q Mr. Magone, Mr. Jolliffe intimated he wanted to clarify some complaints sent to him in regard to the collection of fees by witnesses, for court appearances, and one thing and another?

A Yes.

BY MR. JOLLIFFE:

Q I do not think we covered this matter with you, Mr. Magone, when you were previously giving evidence. It simply relates to the fees of witnesses in criminal prosecutions, their travelling expenses, and the time at which they get paid.

Perhaps we had better let you deal with it in your own way.

A I might deal, first, with summary conviction offences. They are the ones which are the most troublesome, because all the costs in summary conviction cases are payable as between parties; If there is no counsel, the province is not responsible for the payment of any part of the costs. Even though the police may lay the charge, the costs, if any, are assessed. In the case of a dismissal, the costs would be assessed against the constable, and it would be a question of reimbursing

the constable.

The great complaint in the past has been with respect to the payment of witnesses in summary conviction cases, and there has been delay in having those fees paid. The Department of Highways would always pay the witness fees in careless driving cases, under the Highway Traffic Act, when an offence was committed on a provincial highway.

Sometimes the magistrates were remiss in sending in the accounts, and we received complaints.

In the last three or four months we have directed all the magistrates to pay all the prosecution witness' fees, when they could not be collected from the accused, and to pay them out of the fines and fees received in his office.

We hope that will clear it up, as far as summary conviction cases are concerned.

As to the amount; the fees in summary conviction cases are adopted, for provincial statute offences, from the Criminal Code. The fee is three dollars per day, with additional amount not to exceed twenty cents per mile one way, for travelling expenses.

BY MR. GRUMMETT:

Q Over a three-mile limit?

A Yes. In summary conviction cases, that is usually adequate, because, usually again, the witness is from the immediate vicinity. If he had to travel some distance and stay over-night, he would run into difficulty.

BY MR. JAMES:

Q When you say "three dollars a day", I presume you mean a day, or any part thereof?

A Yes.

In indictable offences; the provision for the payment of those fees is in the Ontario Crown Witnesses Act. It provides that the fees are payable, in the first instance, by the county treasurer. In a district, as Mr. Grummett knows, they are paid by the district treasurer, and the province assumes the whole cost. But in the counties, the province re-imburses one-third of the witness fees paid by the county.

Until 1949 the amount of these witness fees was fixed, with reference to the rules of practice, that is, the Crown Witnesses Act adopted the fees payable in civil cases. If my recollection is right, it was \$1.50 per day, and actual travelling expenses not exceeding twenty cents a mile, one way. You will note that was "travelling expenses", not "living

expenses". In other words, they got \$1.50, which was supposed to pay for their meals, and their hotel, if they had to have one.

In 1949, we amended the Crown Witnesses Act and set out a schedule of fees to be paid in criminal cases, and that now provides a fee of three dollars for each day attending trial, and for certain professional witnesses, like lawyers, it is seven dollars.

BY E. JUDGE:

Q Why the distinction?

A Barristers, solicitors, physicians, and surgeons, are giving a professional service. If they attend as ordinary witnesses, they get three dollars a day, but if they are giving professional evidence, they get seven dollars a day.

"If the witness resides more than three miles from the place of trial, and travels by public conveyance other than taxi, the amount he reasonably and actually is paid; where he travels by his own automobile, eight cents for each mile necessarily travelled, but if a public conveyance other than taxi is available, no witness shall be allowed mileage of more than 200 miles in respect of

each day."

That allows him to go back and forth to his home night and morning.

In addition to that, if he stays overnight, he is entitled to what he spends, but not exceeding six dollars for each day.

That is a very radical departure from what has been paid in the past. In 1949, for the first time, we commenced paying a living allowance to witnesses.

I might say, as a member of the Rules Committee of the Supreme Court, I attended a meeting of the members of that Committee, where we discussed changing the tariff for witnesses in civil cases. That was just last year. It came into force the first of September, 1951.

I suggested that in civil cases they might well adopt a tariff in the Crown Witnesses Act, but there was so much opposition to that, that they came up with a tariff which is considerably lower -- this applies to civil cases -- whereby they paid three dollars to the ordinary witnesses, eight dollars for professional witnesses for professional evidence, and travelling expenses not exceeding 20 cents a mile

one way, and they will pay a living allowance not exceeding three dollars for each day. They cut the allowance in half, you see.

That I think, brings us up-to-date, as far as the amount is concerned.

BY MR. JOLLIFFE:

Q Then the most generous of all systems is the one in 1949, for witnesses in indictable cases?

A That is true, Mr. Jolliffe, yes. I cannot give you the figures across the Dominion of Canada. I did get them at one time. I think, with the exception of one province -- British Columbia, which I think pays five dollars a day to ordinary witnesses without a living allowance -- I think probably our tariff now is as generous as any place in Canada.

Q Yes, I think it probably is. The difficulty, of course, is that three dollars a day represents a loss, as far as the wage-earner is concerned.

A Oh, undoubtedly it does. But you must remember, Mr. Jolliffe, that it is only in recent times the Crown paid any witness fees at all. Until 1922, in fact, there were no witnesses fees provided for a coroner's inquest, or for preliminary hearings.

Q Yes, I know. Some of us feel, however, that

this is one of the reasons why so many people are unwilling to be witnesses, or reluctant to go along in the process.

A I do not suppose we will ever reach the stage where we will pay witnesses what they might have earned, if not required to attend court.

Q Perhaps not, but it seems to me there is a real problem there. For example, there are some centres in the province where ordinarily wages, as we all know, are much higher than elsewhere. By the same token, the cost of living in those centres is also higher. I am thinking of cities like Windsor, and Hamilton.

MR. JAMES: And Sarnia.

MR. JOLLIFFE: Yes, Sarnia and Toronto.

Now, the average wage-earner can hardly expect his employer to foot the bill if he is absent as a result of being subpoenaed.

The salaried man, of course, is in a little different position. I do not think anybody would dock a salaried man, because he has to go to court one day. It is the wage-earners who suffer, because of this thing.

MR. JAMES: The farmers suffer more than anybody else.

MR. JOLLIFF: Yes; in particular, I would say the wage-earner and the farmer. The salaried man does not lose so much.

MR. JAMES: We had a case last winter when the Assizes were on, where a farmer was called up for a week, and there was nobody at home to look after the cows, and he had to have his wife get somebody else to look after them.

BY MR. JAMES:

Q How does this compare with the jurors' allowance?

A I was going to deal with that. We will have to deal with both, if we are going to deal with one.

They get six dollars a day, and no living allowance, and twenty cents a mile one way travelling allowance.

BY MR. GRUMMETT:

Q Mr. Magone, as regards the juries; do you think that the sum of six dollars per day is sufficient?

A I do not know, Mr. Grummett. I would have

difficulty, I think, living on six dollars a day if I was away from home.

MR. JOLLIFFE: You would have more than difficulty.

THE WITNESS: It depends, I might suggest, Mr. Jolliffe, on where you are. If you are in Milton or L'Orignal, you would have no trouble, but if you are in Port Arthur, or Sudbury, or Hamilton, or Windsor --

BY MR. JOLLIFFE:

Q Or Ottawa?

A Yes.

BY MR. JAMES:

Q What about Toronto?

A It depends on where you want to live in Toronto, Mr. James.

BY MR. HOUCK:

Q In Niagara Falls, you would have to have American money.

A On the whole, I do not think it is enough.

BY MR. GRUMMETT:

Q Do you not think it creates a certain amount of resentment on the part of the men called for jury duty when they are paid this small amount? He will want to avoid it, if he can?

A I think that is so, before he has served on a jury. I have heard lots of people say, after they have had the experience, that they would not have missed it for any amount of money.

You hear people complaining bitterly when first receiving their notice to appear, but afterwards they change their minds -- after they have served.

BY MR. JOLLIFFE:

Q Yes, I think there is something in that. But what bothers me is the talk you hear from the average citizen -- at least, I am afraid he is "average" -- who does not want to be involved; he does not want to get mixed up. I am not suggesting that the reason is purely financial. Some of them may seem to take a rather childish attitude toward the ordinary administration of justice", but, nevertheless, it appears to be the attitude, "If you can get out of being a witness, so much the better," even in hit-and-run

cases.

We had similar reasons expressed by the counsel for the Bell Telephone Company, so I do not think you can blame the average citizen, who takes the same attitude.

MR. GRUMETT: I know a man who deliberately stays away from the post office, thinking there might be a registered letter summoning him for jury service, knowing that the Assizes were coming on in a certain period of time.

THE WITNESS: I can imagine them doing that.

BY MR. JOLLIFFE:

Q You think you have corrected the situation in regard to summary conviction cases?

A I hope we have. I do not see why it will not work out perfectly well. We have told them to pay the fees at the end of the case, and not wait to send the accounts in to the Liquor Control Board or the Highway Department.

BY MR. JANES:

Q Have not the judges been offenders?

A I think so. I think it has been the magistrate

or the magistrate's clerk, who has not sent in the witness sheet to the Liquor Control Board or the Highway Department, or wherever it should go.

BY MR. JOLLIFFE:

Q These new instructions you have given; do they relate to the whole field of summary conviction offences, or just highway and liquor offences?

A No, they relate to the whole field of summary convictions, except those where a private prosecutor has laid the charge.

You know, there are certain over-the-back-fence rows, where somebody lays a charge against his neighbour.

Q But sometimes they are more serious than that.

A Oh, quite so, and where a private prosecutor lays a charge, we do not pay the witness fees.

Q But then, does it not follow that a private prosecutor may lay a charge, and he can have witnesses subpoenaed?

A Yes.

Q He can tie them up for a whole day.

A He can now, yes.

Q And costs may be awarded against him, or be

awarded against the accused?

A That is right.

Q They may never be collected, and the witnesses may never be paid? Is that not the result?

A That is true, yes.

Q Although the witnesses would have been in contempt if they had not appeared?

A Yes.

Q From a witnesses' point of view, that is pretty raw, is it not?

A I doubt if there are very many cases laid by private prosecutors.

Q I have run into quite a few of them.

A Have you?

Q Of course, your experience is much greater than mine.

A It is not probably done, in the cities.

Q There are a good many assault cases in the county towns which are privately prosecuted.

A Strangely enough, we never hear any complaint at all about non-payment of witnesses in those cases.

It is only the cases where the police have laid charges, concerning which we have received complaints. I do not remember one, where they have

written to our department and complained.

Q Perhaps the complainant is the private prosecutor, and perhaps feels some responsibility for the witnesses' fees.

A I suppose they are usually friends of his, and he knows what they are going to say.

Q Yes, usually.

A Oh, I think so.

BY MR. HOUCK:

Q Most judges are very strict in regard to excuses from jury duty?

A Yes. But I doubt if they have any authority, but in their hands lies the contempt remedy. So I presume they may excuse prospective jurors in that way, but they cannot punish a man for contempt, if he does not appear. I do not know of any provision in the Supreme Court Act giving authority for a judge to excuse a man from jury duty.

Q If I am a layman, I have to appeal to the county judge?

A Yes, if it is in the county court, or to the Supreme Court Judge, if it is in the Supreme Court.

BY MR. JOLLIFFE:

Q I remember, Mr. Magone, being once engaged in a civil case -- it was not a criminal case -- in Hamilton, and the presiding judge was Mr. Justice MacKay. It was in the dead of winter.

As the court rose in the afternoon, obviously a very bad storm was beginning, so the judge addressed the jury, most of whom had come from outside the city of Hamilton. He said there was a bad storm coming up, and it might become much worse during the night, and he suggested to the jurors, in a friendly way, that they might be wise to stay in town overnight, unless they felt very certain they could get back in the morning.

I suppose those jurors were in the position, if they went to a hotel, they would have to foot the bill themselves?

A That is right, yes, out of their six dollars.

BY MR. JANES:

Q Would you have to have anybody with them?

A Oh, no, they are supposed to look after themselves.

Q The judge could not penalize them, if they could not get through, owing to the condition of the

roads?

A No, I do not suppose so. But he could --

BY MR. JOLLIFF:

Q But the whole sittings could have been held up if one or two of the jurors had been stuck in the snow some place?

A Yes.

Q Are you satisfied with the present scale now?

A Of six dollars?

Q The one to which you have referred.

A Are we speaking now of juries or witnesses?

Q I am getting back to witnesses.

A I think I am satisfied with the present scale of witness fees.

Q You are not recommending any increase?

A No.

BY MR. HOUCK:

Q And you are satisfied with the jurors' fees, too, are you?

A I think it works out, on the whole. I think the last time it was changed from four dollars to six dollars, was only in the last five or six years.

Now, with the automobiles, the jurors usually get home at night.

BY MR. JOLLIFFE:

Q I agree with that. I think the problem is not so much --

A No, it is not. We do not get complaints. If there are any complaints now, we would hear about them.

BY MR. HOUCK:

Q If the jury is locked up --

A He does not have to pay, then.

BY MR. JAMES:

Q This farmer to which I referred, was in a devil of a mess; there was nobody at home to milk his cows.

A I see.

MR. JOLLIFFE: I think it imposes a heavy penalty on a farmer and wage-earner. It is a pretty stiff penalty.

MR. GRUMETT: Then again there is the question of a man coming from beyond the 100-mile limit. We have

that in the districts. For instance, the district of Cochrane; men will come from Hearst, which is 150 miles from the courthouse.

THE WITNESS: Yes, you do have problems up in the north country which are quite different from those in the southern part, but I think, Mr. Grummett, this new tariff is working out pretty well up there. There were many cases of hardship before the tariff was enacted in 1949.

BY MR. GRUMMETT:

Oh, yes, it was much more difficult at that time?

A Yes.

BY MR. DOWNER:

Q There has been some complaint about the delay on the part of the justices of the peace paying the fees. Can you explain that?

A In regard to the justices of the peace?

Q Yes.

A They collect their fees in indictable cases from the county, and they only get them once a quarter, after they are passed by the Board.

I have never heard of any particular complaint, because they knew when we appointed them, that they would be paid on a quarterly basis, after the account is audited.

I have not heard any particular complaint from the J.P's. The complaint I have heard was that the J.P's were getting too much money.

BY MR. JOLLIFFE:

Q You do not hear any complaint from the J.P's?

A No.

BY MR. GRUMMETT:

Q They send in their accounts every quarter, and they are passed and paid, the same as coroners and other officials?

A That is right, Mr. Grummett.

BY MR. JOLLIFFE:

Q Who is complaining? The counties?

A Yes, and some of the magistrates are complaining that the J.P's are making almost as much as they are. Also, the Mayors of some of the towns complain that the J.P's are making too much money.

MR. DOWNER: The magistrates are not doing so badly, in this province.

MR. JAMES: No, they are doing mighty well.

BY MR. JOLLIFFE:

Q Mr. Lagone, there is one other point which is quite different from this one, and we did discuss it previously, in passing, but it is not quite the matter I have in mind.

In some of the counties with the smaller populations, -- in fact, in many of them -- you have a crown attorney on a fee basis?

A Yes.

Q Now, under what circumstances does he move in and act as a crown attorney? For example, if the policeman in a town lays a charge, and the offence is a summary conviction offence, the policeman prosecutes, does he not?

A The policeman prosecutes, yes.

Q Not the crown attorney?

A That is right.

Q In the large cities, the crown attorney is the prosecutor?

A I might clarify it in this way; under the Crown

Attorneys' Act, the crown attorney has the duty to over-see the administration of justice, and take part in any summary conviction case, where he thinks he should intervene. That is, under the Crown Attorneys Act.

But usually what you suggest is so; he does not appear and the prosecution is taken by the town policeman.

BY MR. GRUMETT:

Q And by the Provincial Police, too?

A Yes.

BY MR. JOLLIFFE:

Q Or the Mounted Police?

A Yes.

BY MR. GRUMETT:

Q I have heard municipal police and provincial police bitterly complain about having to prosecute. As you know, there is a great change in the personnel of the Provincial Police and the municipal police. Quite often young, inexperienced officers start in as policemen. Within a week, he may be required to

appear in court and take on the role of the crown attorney, and prosecute a case.

These young policemen bitterly complain about the lack of assistance from the crown attorneys. The crown attorney may be quite correct in his failure to appear in these cases, but the police feel they are not being given the assistance they should.

I have had many complaints during the past two or three years.

A Mr. Grummett, we have told our crown attorneys right across the province that they must appear in the more serious offences. We have pointed out the cases, such as careless driving, leaving the scene of an accident, taking an automobile without the owner's consent, under the Criminal Code, and drunk driving when prosecuted as a summary conviction offence, and we have told them to appear, and we provided a tariff for the payment of crown attorneys when they appear, in those circumstances.

BY MR. JOLLIFFE:

Q That includes careless driving?

A Oh, yes, that includes careless driving.

For the ordinary speeding case, we tell the

crown attorney he is not justified in appearing, because the magistrate has power in those cases to award counsel fees against the accused.

If he fined him five dollars, and awarded a counsel fee of **ten** dollars for the crown attorney, as some of them might do, we would have a lot of complaints, that the costs were **twice as much as the fines.**

BY MR. GRUMETT:

Q Do you not think that should be abolished, where the crown attorney is paid a fee for appearing in cases of **that** kind? Why not **require** him, as crown attorney, **alone** to look after the administration of justice in his county or district?

A I do not see why an accused in some cases should not be mulcted of a counsel fee. The limit is ten dollars.

Q You know some magistrates would never award the crown attorney a counsel fee.

A I know that some do.

Q The crown attorney does not bother to mention it, because he knows the attitude of the magistrate.

A On the other hand, there are a **number** of magistrates who do.

BY MR. JOLLIFFE:

Q It seems rather anomalous, where some do and some do not.

MR. GRUMMETT: It places an additional burden on the crown attorney.

MR. JOLLIFFE: The crown attorney is the public prosecutor.

A If he does not get it from the accused, he gets it from the province.

Q Was it recently you sent out instructions with reference to careless driving and the other offences you mentioned?

A No, it is three or four years ago.

Q I am not disagreeing with it. It is entirely correct, and a step in the right direction, but it simply means if a crown attorney stays out of a careless driving charge, he would be disregarding those instructions, would he not?

A That is so, yes. But he may stay out because the constable has not told him there is that kind of a case coming up before the magistrate.

Q Oh, yes, I can see where that might happen. There is another aspect, of course, which

troubles me, and that is, it means in a smaller case, a man might be prosecuted by a policeman for some of these offences.

MR. JAMES: He would have the magistrate to protect him.

MR. GRUMETT: No, it works the other way.

THE WITNESS: You know, in Toronto, Mr. Jolliffe, the traffic court is taken by a police inspector, apart from the careless driving cases.

BY MR. GRUMETT:

Q In the small places, the policeman, who may not have much experience, has to prosecute, and he often has to face defence counsel, which is not a fair break for the policeman.

A Well, in speeding cases, what is the evidence? The evidence usually is that an automobile bearing license number so-and-so, was driven at fifty-five miles an hour on such-and-such a street.

BY MR. JOLLIFFE:

Q But there are others, are there not, Mr. Magone? I seem to recall a case -- I think it was in

Galt, however it may have been some place else -- where I watched a young police officer prosecute a man, and it was not for speeding. The crown attorney sat there, and took no part in it, and they ran up against a very competent defence counsel. That is not fair to the young policeman.

MR. GAUMETT: I have seen them time and again, where the young police officer was having trouble bringing out the evidence, and the crown attorney was not helping him, because it was not within his province.

I know of a case two or three weeks ago where a very fine young officer laid a charge of impersonating a policeman against a man, who was recently dismissed as a municipal police officer. He had "the goods on him", but in the evidence he was not able to convince the magistrate, and the magistrate dismissed the case. The officer was quite bitter about it.

BY MR. JOLLIFFE:

Q Mr. Magone, have you made any survey or estimate of what, if any, would be the additional cost of using full-time crown attorneys throughout the province?

A No, we have not.

MR. JAMES: I think the suggestion was to have a travelling crown attorney.

MR. JOLLIFF: I do not know what the best arrangement would be, but obviously it is possible to have the work of a crown attorney run by a full-time man, on some sort of an arrangement, and Mr. Magone would be the best person to find that way.

THE WITNESS: We have not made any survey to determine that, as yet.

MR. JOLLIFF: I realize your department is very busy, but do you not think it would be valuable to know what would be involved in a change of that kind.

THE WITNESS: It might be useful, yes.

BY MR. GRUMMETT:

Q I believe that during the term of this Committee, we may be visiting some of the towns and cities, and it might be possible to get the opinion of some of the crown attorneys in some of the smaller areas, to find out what they think of the situation.

A Of course, there are some very competent crown attorneys, who are on fees, and would not welcome

the change at all. There are others, of course, who would.

I do not think you would get much out of asking questions, except to find out who the individual is who wants the job, and who does not.

BY MR. DONER:

Q In some of these smaller towns, there is not enough work to keep them going.

A No. Orangeville is a good example.

Q And Halton is another?

A Yes.

BY MR. JOLLIFFE:

Q Conditions have changed a great deal since we first had crown attorneys in Ontario. It is now possible for a man to drive from place to place in a short time?

A Oh, yes.

MR. GRUMETT: A crown attorney could be in charge of a region, not specifically of a county alone, but he could act in a combination of three or four counties.

MR. DONER: I can tell that, because I think

that the county of Simcoe is much too large for one crown attorney; on the other hand, the county of Dufferin is much too small.

MR. JOLLIFFE: You had better not go into that into too much detail. After all, you are the member for that area.

BY MR. JOLLIFFE:

Q Our counties do not lend themselves too well to the regional administration of justice?

A No. But there are other circumstances, I have found. If you recommend that the province might be formed into judicial districts for the purpose of the administration of justice, you are bound to run into a tremendous amount of local opposition.

It might be worked out on that basis -- on paper.

Q The Provincial Police have had to do that.

A They have done it.

Q They do not pay too much attention to county lines?

A No, but the same problem does not present itself. If you have a courthouse which would never be used again, if you formed an area like that, you

will have considerable opposition, I am afraid.

MR. JOLLIFFE: I have no more questions.

BY MR. GRUMMETT:

Q I have one point I want to raise. I am not quite sure whether I raised it before with you, Mr. Magone. I think I raised it with Inspector Stringer. That is the question of a central place of execution.

My feeling, Mr. Magone, is that it is not proper to have executions take place in the small county towns. It creates a certain amount of disturbance, and draws to the attention of the youngsters and others, the fact that an execution is about to take place. Do you not think it would be more satisfactory if we had all the executions in the province take place in a central place, designated by the province for executions?

A That question, Mr. Grummett, was raised before the Select Committee of the Legislature on the Administration of Justice in 1941, and some evidence was given -- I forget by whom -- but the recommendation by the select committee at that time was against a central place. They felt, as I do, too, that there are reasons in

support of it, and there are reasons against it. .

I believe that Commissioner Stringer -- and I remember you mentioned this to me once out here in the hall -- Commissioner Stringer, I presume, would say that it was dangerous to move these convicted murderers from place to place, if you had a central place, such as at Kingston or Toronto.

Then, on the other hand, if the parents or friends of the condemned man happened to live in, say, Kenora, they would have no last opportunity of seeing him.

The other side of the picture, of course, is this; if you had a central place of execution, you would have better facilities for carrying out the sentence.

Q You would have a permanently-constructed gallows?

A Yes.

BY MR. JANES:

Q But the remains would belong to the family?

A No. The Criminal Code provides they have to be buried in the jail yard, unless they get an Order-in-Council to deliver up the body for burial elsewhere.

Q That would involve a lot of expense, to take

a body back to Kenora from Toronto.

A That is one of the considerations which would have to be thought about.

There is no doubt a central place of execution would certainly be preferable from the standpoint of carrying out the sentence itself. But there are other considerations.

BY MR. GRUETT:

Q The only objection, as I see it, is the one referred to by you, that the relatives might not have the opportunity of visiting the condemned, but, on the other, we have the excitement and the attention drawn to the fact that an execution is taking place in a small county town, which is not for the good of the community, I think.

MR. JAMES: quite recently they had one, and the people crowded up on the top of a house before daylight, to see it. They did not want to miss it.

THE WITNESS: It is only 120 years since they had public executions.

I think that is the system they have in most of the states of the union, where they have a central place for electrocutions.

BY MR. GRUMMETT:

Q Yes, and I was wondering how it worked out there.

A I think it works all right. The evidence given in 1941 is available, and the report is printed. I have a copy in my office.

MR. GRUMMETT: I would like to see it.

MR. HOUCK: If Mr. Grummett is finished, I move we adjourn until ten-thirty o'clock to-morrow morning.

MR. DONNER: I second the motion.

---The witness retired.

Motion agreed to.

---The further proceedings of this Committee adjourned at 4.05 p.m., until Wednesday, October 3rd, 1951, at 10.30 o'clock a.m.

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PROCEEDINGS
of the
SELECT COMMITTEE OF THE
ONTARIO LEGISLATIVE ASSEMBLY
APPOINTED TO ENQUIRE INTO AND REPORT
UPON CERTAIN MATTERS CONCERNING THE
ADMINISTRATION OF JUSTICE IN THE PROV-
INCE OF ONTARIO.



Vol. 27.

Wednesday, October 3, 1951.

T W E N T Y - S E V E N T H D A Y

Toronto, Ontario
Wednesday, October 3, 1951
10:30 o'clock, a.m.

- - - - -

The further proceedings of this Committee reconvened, pursuant to adjournment.

All parties present

Same appearances as heretofore noted

- - - - -

THE CHAIRMAN: Gentlemen, shall we proceed?

MR. JOLLIFFE: Just before we take the witness, may I ask, Mr. Chairman, whether you have had any opportunity to make any enquiry of the Foreign Exchange Control Board regarding this matter of remittances, between Canada and the United States,

THE CHAIRMAN: Has anything been done about that?

THE SECRETARY: It was discussed at several sittings ago, and I think at that time it was left with the Chairman.

THE CHAIRMAN: Was it me who was to do something about it,

MR. JOLLIFFE: Yes, we reposed great confidence in you, Mr. Chairman.

THE CHAIRMAN: Perhaps I did something about it. If I have been remiss in any respect, I will apologize.

MR. JOLLIFFE: If you check the transcript, I think you will find the understanding was you were to ascertain from the Board whether they had any statistics which would be helpful to us.

THE CHAIRMAN: I have a vague recollection that something was done. Whether it was done by the Securities Commission or not, I do not know.

MR. JOLLIFFE: I think you gave the undertaking -

THE CHAIRMAN: The undertaking, if made, will be carried out, and if you say it was made, there is no doubt it was.

MR. JOLLIFFE: We thought if the Board was approached by the Attorney-General of Ontario, they would, no doubt be willing to assist, so far as it was in their power to do so.

THE CHAIRMAN: Are we ready now to proceed?

MR. JOLLIFFE: Yes

THE CHAIRMAN: We have with us this morning,
Mr. Louis Cadesky;

LOUIS CADESKY

A witness being called and duly sworn, testifies as follows:

BY THE CHAIRMAN:

Q Now, Mr Cadesky, perhaps I should intimate what the reason was for asking you to appear to-day. You have voluntarily come at our invitation.

A Yes

Q We thought we might be able to find out from you certain matters. We have had some evidence here about promoters, and so-called "middle-men" in the brokerage business, and in the business of distributing stock, men who are not licensed broker-dealers, but who played some part in the transaction in one way or another, and we wanted to get some first-hand evidence from somebody who was involved in this sort of business as to what the functions are of the middle-men, or promoters, or whatever you want to call them. There may be different kinds of deals about which you could perhaps enlighten us.

I understand you have had considerable experience in financing properties and companies, and you might be able to give us some assistance in telling us what you

know about the promotions of mining companies, and what function a promoter plays, in relation to the broker-dealer, and everybody else concerned.

I believe you have been interested in a number of companies?

A Several companies

Q Mostly mining?

A All mining

Q I do not want to go too far into any personal business of yours, as I do not think that is the object of the enquiry, except that you might want to illustrate through some activity of your own, but if you care to do so, we would like to hear about two or three of your ventures, to see how they worked out, and what happened, and what your position was in the transaction.

A I would be glad to give you my own personal experience.

I was a broker about fifteen years, prior to my going into the promotion business, so I have experience on both sides.

I was continuously a broker for fifteen years, from 1934 to 1948. Then I sold my business and went into the promotion business.

Q What do you mean by the "promotion business"?

A My function was to acquire properties, stake properties, and develop them,-- anything pertaining to mining. That is my business.

I have been staking, or have caused to be staked, and purchased properties, and have done work on them, and maintained an engineering staff, I have grub-staked prospectors, and so on and so forth

BY MY HONOR:

Q That is the general means you employ in acquiring a mining property?

A That is right.

BY THE CHAIRMAN:

Q In other words, you have to have capital, or money from some source, to carry a property up to the stage where it can be distributed to the public, is that what it amounts to,

A In most every case I have used my own capital in securing properties and developing them into companies. In many cases I sold properties to other mining companies. In many cases I have sold properties to other promoters. In other cases I have developed them to the stage where I have formed a company for the financing of them.

I believe I have been responsible for the revival of Cobalt Camp.

Q Would you care to illustrate on that a little bit?

A In 1943 I created what we call the "Silanco" Mining and Refining Company.

I accumulated approximately thirty properties into the company, and purchased a going concern -- a mill. We were an operating company at that time, and I purchased it, and since then I was responsible for bringing in another producer called "Cobalt Lode", which is paying dividends to-day.

Q How long ago did you start to work on that?

A A little over a year ago. It will earn approximately six hundred thousand dollars this year.

Q Was that an old property,

A It was an old property we revived.

Since then we are in the process of having a five hundred-ton mill getting into operation by next month, to re-do all the tailings which were left there.

Q That is, in the Cobalt Lode?

A No, it is new property. A 500-ton mill will be in operation in November.

Q That is to get the remnants of ore out?

A In one spot we have over six million ounces of silver. We also have the property we will work, after a mill is designed, so we can work on the property,

after we strike the tailings, and get them out

I am also responsible for, and will be bringing in, one of the -- probably the first base metal mine in Ontario, in the Cobalt Camp.

Q Base metals?

A Yes.

Q What sort of metal?

A Lead, zinc, copper, cobalt and silver.

We have at the present time, starting in July, and up to the present time, indicated 750 feet of length, 600 feet of depth, and are now getting ready to stake a three-compartment shaft down to 600 feet, and expect to have the mill in operation. I am rather proud of that.

With that, I think it will change the whole Cobalt Camp.

BY MR. JOLLIFFE:

Q What is the name of that?

A The Penn Cobalt.

Q That is P-E-N-N?

A Yes. Our engineers have told us we are now prepared for a 300-ton mill, and we are making arrangements to that effect. Finances are being arranged for full production.

There are others in the camp, and I expect they will come in good.

I have been responsible for creating a smelter in the camp. We have not had too good luck up to this time, because we had an act of God, and had a fire, just about the time we were ready to take the kinks out of it, and were ready to ship metal to the United States Government, which we had a large contract for

Up to that time, Cobalt could not operate profitably. They had no smelter. They had to produce their cobalt, and were getting nothing for silver up to fifty ounces. They got nothing for any other by-products of cobalt; they got nothing for nickel. So the Cobalt Camp was not a profitable proposition.

We then decided that a smelter was the only thing to revive the Cobalt Camp. I went and sold Silanco with the idea of protecting the camp

Q Did Silanco put in a smelter?

A Yes

Q That was the one which burned down?

A Yes; Silanco did put a smelter up.

Unfortunately, we ran into difficulties. Our contractors were well under their estimates, and I had given the company \$1,200,000 and had made preparation to fit the smelter at the time, by doing a lot of development work, and getting it to the stage where the smelter could be fed.

We were not getting anywhere with the contractors we had, and we had then spent \$680,000, and we were not half-finished. Our smelter was supposed to be finished by the first of August, and here we were in February, and we had to spend \$680,000, and we felt we had a bad deal. We had to try and break the contract for some reason or other.

Over a period of time we eventually made a settlement with the contractor. In the meantime, they stopped our financing while these negotiations were going on, and we got into difficulties, and I went to the rescue of the company, and gave them approximately \$300,000, to put them back into shape again.

We started off earning again, and we found that the smelter was a bigger proposition than we had anticipated, and it was going to require an awful lot more money.

So I took the company and made a separate company out of the smelter, and went ahead and finished the smelter.

I had then given the company approximately \$575,000, to finish the mill, which had been done. We had finished the mill.

We had a contract with the Government of the United States for approximately \$45,000,000 for all our output.

Q For approximately what?

A For approximately \$45,000,000.

Q Was that for the purchase of Cobalt?

A Yes We had a five-years' contract for all the production.

We then went ahead, and were ready to do our shipping, and we were just getting the "bugs" out of our metal, which is quite a technical situation in the Cobalt, and the fire came along, and we were more or less wiped out.

The company again got into difficulties, and again myself and my friends came to the rescue, and we got the company again in good standing.

We were then offered a loan from the United States Government -- a substantial loan, running into millions of dollars -- when an embargo was put on all our cobalt, and it was shut off, and we could not ship it out.

BY MR. JOLLIFFE:

Q Who put on the embargo?

A The Dominion Government. Again we were stymied.

BY THE CHAIRMAN:

Q When was that embargo put on?

A About six or eight or nine months ago.

We bitterly complained, and eventually the price of cobalt came up -- well, I am a little ahead of my story. But we could not do anything.

So we had to negotiate further financing to finish the smelter, and we expect to get it. As a matter of fact, there is a group going up this week-end, and we anticipate they will put up at least one million dollars to finish the job.

Q Is that a public issue?

A It has been a public issue.

BY MR. JOLLIFFE:

Q This is the Silanco, you are describing?

A Yes.

BY THE CHAIRMAN:

Q That gives us some idea of the matter. There may be members of this Committee who might have other questions to ask as to some of your activities in that way.

A If I might go further --

Q Surely, go ahead I do not want to stop you.

A I operated quite a lot in the Yukon, and I dealt with what is called "Mackeno" and "Yukeno", --

Q These gentlemen of the Press may want to buy some of this stock, and you should speak so they can hear you.

A I am not selling it. I am out of it, so I am not here to give myself a "plug".

The companies -- one is selling at \$2.00 a share, and the other around \$1.70 . These stocks, to which I referred previously --

Q These two enterprises were the Mackeno and the Yukeno, and in those cases you were the promoter.?

A Yes, I staked a lot of ground.

Q The same sort of thing you described in connection with Silanco?

A Yes. I sold properties to other companies listed on the Exchange to-day, and they are doing very well. I have a lot of properties I do not intend to sell. Some of them are not worth selling. That is the other part of the business. We do not win with every one. We take the best we have, and those I do not think are good enough, do not go into a company. That is part of my promotional experience.

Q Now, Mr. Cadesky, you have described the activities of yourself as a promoter in this province?

A Yes

Q Perhaps you will go a little further, and just outline what happens when you get to the point where you want to make a distribution to the public?

BY MR. HOUCK:

Q May I ask you, before you answer that question; the companies you have promoted in recent years -- say in the last five or eight years -- have the developments taken place at all those properties?

A The ones I mentioned, yes. In the others, the public was not in. I have been in them personally, and have spent my own money.

BY THE CHAIRMAN:

Q They never got to the stage of public distribution?

A I did not think they were worth it, so I just dropped them. Sometimes we give them back, and at other times, we just forget about them.

BY MR. HOUCK:

Q As I understand it, Mr. Cadesky, you promoted the companies for the properties you have staked and invested in?

A I have not. I sold some to other companies, and they are promoting them.

BY THE CHAIRMAN:

Q Or you may have a number of claims with which you have never proceeded?

A Hundreds of them. I have properties all across Canada, and until such time as I do sufficient work to feel that it warrants offering to somebody, I just leave them alone.

Q Then perhaps we can get into the next stage, and the question I asked you was about the next step in these promotions, when you get to public distribution?

A Usually I form a company with, usually, a capitalization of three million shares. I take my vendors' position for the amount of money I have put in, and for the work I have done, and try to find a broker-dealer who will handle the issue, or handle the underwriting. I then make a deal with the under-writer, and he carries on the financing from there.

BY MR. HOUCK:

Q Do you think, Mr. Cadesky, along that line, that the spread between the price to the public for shares in the mining company, and the prices paid to the treasury, are out of line?

A I do not think so.

It takes a lot of money to sell your product. Mining is no different than any other business. It may be a little high for those who have a clientele, but those who have to go out and create a clientele, their costs are pretty expensive.

I might say that with the price spreads of the broker-dealers, I cannot find where they are making too much money, because many of them do not have too much money.

Q You were formerly a member of the Broker-Dealers Association?

A I was formerly a member of the Board of Governors. There are different cases. There are some cases where a broker has an established clientele, where he does not have to spend too much money, and I would say he is making a profit, and a good one.

But where a new issue comes out, and the broker has to develop that, and pay for the publicity in order to create interest, I think he is not getting too much. That has been my experience in my own business.

BY MR. HOUCK:

Q Judging from your own experience, would you say that in the promotion of mining properties, you profited

by that?

A I do not quite understand your question.

Q Through your promotion of mining properties, you have made a profit?

A I could not exist and carry on my business without making a profit some place. I may make a profit on one, and lose on another. I do not make a profit all the time.

Q There are promoters who have "lost their shirts".

A There are promoters and promoters. Every businessman is doing the same thing. Some can carry on their business, and others are not successful.

BY THE CHAIRMAN:

Q But a number of companies you have turned out, have turned out reasonably well?

A I have not suffered from the ones which were successful. I have suffered from the ones which were not.

Q You have been connected with a number of successful companies?

A I think I have. I am proud of my achievements.

MR. HOUCK: You have had experience, have you not in the brokerage business?

A Yes, I was in the north country at one time in my life. I used to be in the fur business, and most of the trappers were prospectors, and in the summertime, when business was slack, I went out and played around a little with prospecting, and acquired a liking for it. That is why I gave up my brokerage business. I did not think I could do justice to both. I liked this other business better, so I stayed with that.

Q Would you be in favour of licensing promoters?

A That is a matter of policy. I would not like to comment on that. I do not care one way or the other. It just does not make any difference to me.

No promoter can sell an issue without it being scrutinized by the Ontario Securities Commission, so it does not make much difference. It still has to go through the Ontario Securities Commission. They scrutinize the deal, and if they think it does not warrant a public issue, they just do not qualify it.

BY THE CHAIRMAN:

Q We recall something about the Commissioner telling us about certain middle-men, which I do not think has been fully developed, from what we heard, namely, that he was talking of something a little

different from yourself?

A Oh, yes.

Q There are certain middle-men who have entered into these transactions, who do not seem to be performing any service at all, and some policy has been adopted cutting down their profits to a comparatively small sum

Can you throw any light on that statement?

A I do not know about that. I do not class myself as a "middle-man", because, in practically every case, I am a principal. But I think he was more or less referring to agents, what you might call an "agent", rather than a "middle-man".

Q There are so many names used.

A Yes I do not know how you might evaluate a man's services; that is between the men who buy and sell. A man wants to sell something, and wants a certain amount of money; I either give it to him, or I do not.

Q It depends on whether you think it is a good business deal?

A Yes. I do not have to take the deal, if I do not think it is a good one.

Q When you want to distribute the shares to the public, you deal directly with some broker-dealer?

A Yes, I do. In my particular case, I am the vendor, and my name is on the prospectus in every case, and I am satisfied to play along with the vendor's position.

Therefore, I try to get a direct under-writing from a broker-dealer to the company, and there is no commission in between. That gives them more responsibility.

Q You do not make any commission on your sales of the properties?

A No.

Q You have your vendor's stock?

A I have my vendor's stock, and I hope to make good with it.

If the company makes good in the long run -- I make good with it.

Q And the stock is released gradually from escrow, and that is where you make your profit?

A That is where I hope to make my profit.

Q You might make a great deal, and you might make nothing?

A That is right.

Q And that is the situation?

A Yes, and in the long run, if I am careful in selecting my properties, I will do all right.

BY MR. JOLLIFFE:

Q Mr. Cadesky, this matter came to our attention on one occasion in connection with a case dealt with by the Securities Commission, back in 1949, when the Securities Commission found that the middle-man,-- some person by the name of Brown -- had made a large profit for performing what did not appear to be any services at all. In that case -- the case of Young Company -- the license was cancelled on that ground, and on other grounds.

THE CHAIRMAN: Is that a case in which Mr. Cadesky was involved?

MR. JOLLIFFE: No. I do not think Mr Cadesky was involved, as far as I know, at all. I raise it, because he may be able to throw some light on the practice of the middle-men.

Mr. Lennox told us that under a ruling of the Commission, it is no longer possible for the middle-man to make such a profit.

Mr. Lennox also told us that since the Commission's ruling, the middle-man or sub-under-writer, or sub-optionee, is not permitted to make a profit of more than one-half cent per share, but the middle-men still appear in the picture, perhaps not with your

companies, but in some. We have not been able to find out why they appear

MR. JANES: I think the Commissioner said something about the middle-men being useful in connection with taxes.

MR. JOLLIFFE: He said there was a time when they seemed to be useful for tax reasons, but he thought the situation had changed, and that the tax law had been changed, so they were no longer useful in that way.

I noticed there were some recent promotions -- possibly not yours -- in which there was still a middle-man, and it is not apparent why he is there.

A I do not know that I could give you any light on that. They may have their own reasons. I think in every case, the circumstances of the situation may have some bearing on it. Personally, I have no reason for using middle-men. I see no useful purpose

BY MR. JANES:

Q We cannot see it, either.

A In my own business, I usually sell my deal to a broker who wants it, and if he wants it, he will buy it off me, or off anybody else.

BY MR. JOLLIFFE:

Q Let me put this case to you; if a company makes a so-called "option agreement", or under-writing agreement, and the optionee makes another option with a sub-optionee, there is still the transfer tax payable on those sales?

A That is true.

Q What we do not understand, is why anybody would want to use an under-writer?

A I cannot understand it; unless they have some reason I do not know anything about. I cannot see any reason.

Q Can you suggest any reason, from your knowledge of the business?

A I cannot see what the motive is, unless he has a reason I have not heard of.

I can see only one thing; and that is this: if a man likes a certain deal, and rather than have him get away from it -- or, I should say, have the deal get away from him -- he may want to invest some money in the thing to keep it alive. He may put some money into the treasury, and say, "I will keep this until I find a proper place for it, and then I will sell it."

To some, I would say it is a matter of how much he can make on the deal. He is entitled to what he can

get.

BY THE CHAIRMAN:

Q In order to keep the deal, he would take an option?

A Yes.

And there may be other companies which are hard up for finances, and a man sees perhaps a good situation and he may put up a few thousand dollars to keep the company alive, and he would take the deal with the hope that he could sell, and get a profit from somebody else.

Q By taking the deal, he would take the option?

A Yes.

Q He may not be a broker-dealer at all?

A He would not have to be.

Q But when it comes to the point of finding somebody to distribute it to the public --

A He would have to sell it through a broker-dealer.

Q He could sell his option at some price

A He would not have to sell his option. He could sell an option on the shares, or give himself an underwriting, depending on the value of the shares, and the value of the property.

I have known cases, when I was with the Broker-dealers, where we gave a ceiling on the stock, on a

basis of three for one, and perhaps under other circumstances, I do not think we gave him that.

In a few days there was an automatic market. They hit oil, and there was a street market, and there were many, many shares called at much higher prices than the ceiling. The broker cannot sell it, because he had the ceiling at a certain price. We allowed him to sell at the market price, provided it was a natural market, and was not a fictitious market. The broker-dealers investigated, and found it was not a fictitious market, that it was a demand market, and we could not stop him from selling it. We could not help it. People were demanding the stock. What could we do? Could we say, "We cannot sell you at that price, but we will sell for less?"

BY MR. JOLLIFFE:

Q But the amount which went to the company was the same?

A Yes. But most of the stock which was traded, was not stock sold by himself. It was traded outside on the street.

When you get a demand market, it is not stock which is traded out of your box; it is stock traded on the street, which had sold, so you do not benefit from it

Q You were one of the original members of the Board of Governors?

A Yes, I was.

Q And you ceased to be a member at what time?

A I ceased to be a member when I sold my business. I then automatically was not a member of the broker-dealers. I had to be a broker in order to be a member of the broker-dealers. I automatically resigned at the time.

Q Would that be in 1949?

A I think so, approximately

Q Since then you have been a promoter?

A Strictly a promoter.

Q Do you recall how many companies you promoted since that time?

A I think six or seven; approximately that.

Q And in how many cases have there been public offerings of the stock?

A I think in about five or six.

Q These public offerings, of course, were made by broker-dealers?

A By broker-dealers. Some of them to-day are listed on the Exchange.

Q Yes. I understand that.

A Yes.

Q. Is it the practice for these issues to be sponsored by one broker-dealer, or a group of broker-dealers?

A. Not necessarily. A group of brokers may all take a little piece of it, and it helps distribution. That is done quite often.

Q. Do you happen to know, Mr. Cadesky, how much money has been raised from the public altogether in these promotions for which you have been responsible since 1949?

A. I cannot tell, without going into the brokers and asking them what their records show.

Q. Would you then know how much of it was Canadian money, and how much of it was foreign money?

A. I cannot tell you that either, without going into their books. I cannot go into their books and ask them how they got the money in. That is not part of my deal.

BY MR. HOUCK:

Q. What general means do you employ, Mr. Cadesky, when you are acquiring a mining property?

A. I either stake them on the recommendation of my engineers, or I look into the ground, and look into the geological condition of the camp, and look into what others are doing. We have scouts all around the country. If a district looks as if it had good geological conditions,

and has possibilities, we stake it first, and then look after it, and go to work to see what is on it.

Q. Have you ever taken up any property, which has been referred to here as "moose pastures"?

A. I do not take on a "moose pasture", unless there is some reason for taking it on.

BY THE CHAIRMAN:

Q. You do not take on a "moose pasture", unless there is some reason for taking it on?

A. There may be geological conditions which arise which have not been explored. There are many reasons for taking on a property.

Q. By a "moose pasture", I suppose you mean a property which has no development?

A. That is right.

Q. It just has some geological showing?

A. Yes.

Q. All properties began as "moose pastures" at some time?

A. There never has been any one different.

BY MR. GRULLETT:

Q. Some reach the promotional stage, and some do not.

A. More properties never got to the promotional stage, because they did not warrant it.

BY MR. JOLLIFFE:

Q. Mr. Cadesky, I understand your answer to be that in recent years you have been no longer concerned with public offerings? That job is done by the broker-dealers?

A. That is true.

Q. On the other hand, you do hold some views, do you not, about where and how that money is raised, because of your knowledge of the business? You know a good deal about financing mining companies?

A. I think I have a fairly good knowledge.

Q. What do you think would be the result, if it were no longer possible for broker-dealers in Ontario to solicit business in the United States?

A. The basis is more or less this; you have a large field which is speculative, and it takes money to make mines, and it takes gamblers on a mining prospect, and there are a lot of people who want to gamble, and who will gamble.

Q. Are there not any gamblers in Canada?

A. Of course there are, but we have a large country, and this country has never been explored. The surface has never been scratched. There are many, many more mines to come, and we have to develop them.

Q. I take it from what you say that you think

the most part of the money for mining development comes from the United States?

A. A portion of it. I would not say a "large portion". I think a good portion of it. I think our Canadian people do a lot of gambling, as much as they can, the boys would gamble, in the state they are in.

Q. You express the opinion that if the broker-dealer cannot solicit in the United States, the mining business would be "shot"?

A. No, there would not be sufficient money to develop the prospects in the offing to-day.

BY THE CHAIRMAN:

Q. It is not a question of how much money is in the country; it is a question of how much they want to gamble with.

A. The average person who gambles in a property does not gamble too much money. They gamble a little here and a little there.

Q. I suppose that is why it costs so much?

A. That is true.

BY MR. JAMES:

Q. You spoke about "moose pastures"; do you put your own money in them?

A. I put my own money in them, yes.

Q. You prove them first.

A. I prove them on my engineer's recommendations, and prove them up to a certain point. Nobody will tell you that you have a mine, but they will tell you that if you spend so much money, you will prove it up to a certain point.

BY MR. GRUMMETT:

Q. By "proving it up", you mean fencing, ditching, and diamond drilling?

A. Yes.

Q. You do diamond drilling on your own?

A. Yes. I will give you an instance. If we spend fifty thousand dollars, we will prove whether this vein carries the depth, or this vein carries the length, or whether it will not. We do not start on a piece of ground without having some showing. In other words, you do not go into a backyard and expect to find a mine.

BY MR. JANES:

Q. You prove the property far enough to show you have faith in it, before you promote it?

A. Yes. If my engineers have sufficient faith in it to warrant spending the money.

BY MR. JOLLIFLE:

Q. I will return to my former question again.

One method is for a broker-dealer to send out a large amount of literature to the United States and Canada -- as far as American money is concerned, it is going to the States -- and to canvass these people and solicit them in the usual way and, as you say, get in money in small amounts from a number of people.

A. That is right. The average person, then, is not hurt.

Q. Well, apart from that point, you agree that is one method which is in effect?

A. Yes.

Q. Now, have there not been other methods of bringing American money into Canadian mining development?

A. Well, not in the early stages. I think you will find you can get money from the States after you develop a property, and they feel it will be a producer.

Q. Is that absolutely correct? Have there not been substantial American investors in properties which are still in the speculative stage?

A. Not to my knowledge. You have to solicit them regardless. There have been American companies which are investigating a ground in different places, but an individual has not come up with any sum of money that I know of, unless the venture is being

promoted. You have to sell them the idea.

BY MR. JAMES:

Q. Well, Mr. Cadesky, is your method followed by most of the promoters, to prove a property before you promote it?

A. By a good many.

Q. And you say it is customary amongst them?

A. I think that is the custom of a promoter who is sincere behind his work.

Q. And the question immediately follows, then, is it customary for them to be "sincere behind their work"?

A. I think it is. I think the average person wants to be successful. I do not think they want to sell just ground. I think everybody wants to do a good job. I do not know of anybody who does not.

BY MR. HOUCK:

Q. Have you had any difficulty with having your issues proved by the Securities Commission?

A. No, I have not.

BY MR. JOLLIFFE:

Q. You are aware, of course, that some of your issues have been sold in the United States?

A. They may have.

Q. And were there any fraud order or fictitious orders ever issued against a broker-dealer who solicited in the United States?

A. I do not know of any issue that has had a fraud order, or any person who has handled my issues who has had a fraud order.

Q. Are you interested in the Consolidated Yukeno?

A. Yes, I am interested in the Consolidated Yukeno.

Q. In the case of the Consolidated Yukeno, there is a fraud order against at least one Toronto dealer? I noticed it just a moment ago.

Are you interested in Consolidated Astoria?

A. No.

Q. There were companies named in the said action, namely, the Cobalt Lode Silver Mines Limited, the Yukeno Lode Silver Mines Limited and the Cobalt Chemical and Refinery Company Limited, of New York, Wisconsin, California and Ohio. That apparently resulted from solicitation by Junior Gold Securities Corporation Limited. Do you recall that?

A. They sell them, but I am pretty sure that while Junior Golds was operating, they never had an order.

Q. What is that?

A. When it was operating, they never had an order,

or it would have come to our office. These men came along after they stopped selling.

Q. Junior Golds was cancelled by the Ontario Securities Commission?

A. That is right.

Q. And I take it, considerable money was raised before the cancellation?

A. I would think so, because the company had no knowledge of it.

Q. The money did reach the treasuries of these companies?

A. Definitely so.

BY MR. JAMES:

Q. While you were in the brokerage business, did you ever have a fraud order against you?

A. No.

THE CHAIRMAN: We had better make sure that is on the record.

THE WITNESS: No, I have no fraud order against me, and I never did any mailings. I created a clientele over fifteen years of about thirty-five hundred clients, and I have done business with them, and I was still doing business with them when I sold my business -- every day.

MR. JAMES: That is a nice record.

BY MR. JOLLIFFE:

Q. It is a fact, Mr. Cadesky, that as far as you are concerned, you are not wanted anywhere in the United States on any charge?

A. Not to my knowledge. If I am, would I be going over there and taking an awful gamble? I have no knowledge of it.

MR. JOLLIFFE: I think you are quite right in that.

BY MR. JAMES:

Q. And another question follows that naturally. If a broker-dealer is trying to do a legitimate business is there any excuse for him getting a fraud order?

A. Of course there is. You can send over one piece of mail, and if it hits the wrong person, you get a fraud order. It is not the quantity, it is who it gets into the hands of.

BY MR. JOLLIFFE:

Q. Is it not a fact that what these broker-dealers are doing is unlawful in the United States?

A. It is not unlawful in Ontario, and he is doing business in Ontario.

Q. I am not talking about Ontario. It is unlawful

in the United States?

BY MR. JAMES:

Q. He knows it, before he sends it over.

A. Well, I do not like to take issue on that, but I do not consider it unlawful. It is just that it is not registered in the United States.

BY MR. JOLLIFFE:

Q. That is unlawful by their law. Every country makes its own law.

A. That is right.

THE CHAIRMAN: Whether the law is good or bad.

BY MR. JAMES:

Q. It is not our business to judge that. If you know you are breaking the laws of the United States, you are doing an illegal act, are you not?

A. Yes, probably we are.

THE CHAIRMAN: We will adjourn for five minutes.

---Whereupon a short recess was had.

---Upon resuming.

BY MR. JOLLIFFE:

Q. Coming back to this question of American

money, Mr. Cadesky; other witnesses have told us that during the last six or eight months the flow of American money from the small American investors has dried up; is that your experience?

A. I have not had any experience in the last two years as to what they are doing there. I cannot really give you any idea of what they are doing.

Q. What do you mean "You have not had any experience in the last two years"?

A. I have not had any experience in the brokerage business, and I am away from it.

Q. But you are not that far away from it. There are current issues, in which you are interested.

A. Yes, but I have not heard any complaint about not being able to finance them.

Q. As the money comes in, are they exercising their options to take down stock in cases you are interested in?

A. They have, in most cases.

Q. Has there been more money or less money?

A. I cannot tell you. I have had sufficient money raised to carry out any work which we have contracted. I have had no difficulty in raising the money. Where the money comes from, I do not know.

Q. Do you hold directorships in any of these

companies you promote?

A. No.

Q. And I suppose you hold a substantial stock interest, both as vendor and investor?

A. Yes, I do.

Q. And that is disclosed in the prospectus?

A. Everything is disclosed in the prospectus.

Q. The number of broker-dealers seems to have been dwindling; have you noticed that?

A. I read it in the papers, that they have.

Q. All you know is what you read in the papers.

A. Yes.

Q. That is what Will Rogers said.

THE CHAIRMAN: "All I hear is what I read in the newspapers".

BY MR. JOLLIFFE:

Q. We have heard that the casualty rate has been very high amongst the broker-dealers -- there have been a number of cancellations and suspensions.

A. There probably is a purge; I do not know.

Q. We have also heard a good deal, both in the Press and from witnesses before this Committee about something known as "fronts", namely, a broker-dealer who is not independent, who is ostensibly doing

business on his own account, but is actually doing business as a "front" for somebody else.

MR. JAMES: May I ask a question following up your question?

MR. JOLLIFFE: Yes, certainly.

BY MR. JAMES:

Q. The fact that there are few broker-dealers, would that mean there was any less business being done, or are they under a handicap in getting the money?

A. I think the more brokers, the more interest it creates, and the more money comes into the treasuries of the companies. That is my opinion. It does not matter whether it is a brokerage business or any other business, the more in the business, the more interest it creates.

Q. Do you think there are too few brokers now?

A. I have been too busy with my own interests to pay much attention to it. I have been away a lot; I have been up in the Yukon and here and there, and all over, and have made several trips up there, and I do not know much about the situation.

Q. Would the fact that you have no trouble in financing your companies, serve to show that there are not too few brokers?

A. I have had no trouble in getting brokers to handle my properties.

BY MR. GRUMMETT:

Q. There was no delay in promoting the sale of stock?

A. No.

BY MR. JOLLIFFE:

Q. It has been suggested by one witness, at any rate, that the regulations and restrictions are retarding development?

A. I do not agree with that. I think the Securities Commission has done a very good job, and I think the Broker-Dealers' Association has done a good job. I think in time, conditions will be worked out, where everything will be satisfactory to everybody.

BY MR. HOUCK:

Q. Just along that line, Mr. Cadesky, we had a witness tell us the other day that he thought the Securities Act should be scrapped.

A. That is a matter of opinion. I do not know what better act you can have than "true and full disclosure".

If you have "true and full disclosure", anybody who wants to take the time to read it, can see

what they are going into. If they do not want to take the time to read it, how can we help them? They will pick up a piece of paper money, and they know whether it is a one-dollar bill or a ten-dollar bill.

THE CHAIRMAN: But perhaps they do not realize it is only worth fifty-four cents.

THE WITNESS: The public has all the best protection possible. If they want to read it, everything is in the prospectus. They can see how much money is going into the treasury; they can see what the promoter is getting. If they still want to buy it, that is up to them. If people are going to buy stocks, there are no regulations to stop them from buying stocks. It is just the same as betting on the horses.

BY MR. JAMES:

Q. You suggest the Commission is doing everything it can possibly do to protect the public.

A. I do not know what else they can do. I do not know of anything better than "true and full disclosure". There is nothing we can give anybody, other than the facts.

BY MR. JOILLIFFE:

Q. What have you to say about qualifying

shares in the United States, under their law?

A. I personally had a very sad experience.

Q. What was that, Mr. Cadesky?

A. I qualified an issue, and in less than thirty days, I got a stock order.

Q. Where did you qualify it, Mr. Cadesky, with the S.E.C.?

A. The S.E.C. yes.

Q. Was that a mining issue?

A. Yes. After working on it for six months, and spending a lot of money, and trying to keep within their laws, it just happened that I qualified one million shares in a company at a certain price, plus sufficient to carry the company through to production, but there happened to be two million shares outstanding in the hands of the public, and in the course of that "tentative distribution", -- I might put it that way -- because we had not distributed any shares to the public -- it automatically became a market locally, and it was felt the market here was below the market we qualified there, and they stopped it.

Q. Who did that, the S.E.C.?

A. The S.E.C. So I stopped qualifying any more issues.

Q. Exactly what does that mean, Mr. Cadesky; does

that mean there was an "over-the-counter" market in Toronto?

A. It automatically became an "over-the-counter" market, when the notice came from Washington that the issue was qualified. There were too many shares in the hands of the public, and it automatically became an "over-the-counter" proposition. It was beyond anybody's control. The shareholders had shares. We could not tell them what to do, and we could not tell them not to sell them. They owned them.

There happened to be a few shares -- probably less than on the market, which was an unusual thing, and they could not pay more than the market, and they put in a stop order without giving us a chance to go down there and defend ourselves.

BY MR. JAMES:

Q. That would be about the only place you could criticize them. They would be justified in not allowing you to sell higher than here.

A. We were not selling here. Every share which was qualified -- a certain amount of that money went into the Treasury, and you cannot sell for less, because we had qualified at a certain price.

BY MR. JOLLIFFE:

Q. That is, your primary distribution was

in the States?

A. There never was a share sold in the States.

Q. On that occasion you were selling treasury shares?

A. All the shares were to be sold in the United States to a United States broker, and that one million shares in the treasury was in the hands of a broker. We had no shares to sell here.

BY MR. JONES:

Q. Where did the shares come from which were sold here?

A. They were all in the public. There were probably one thousand shareholders, with two million shares.

Q. You cannot criticize the C.I.C.? They were protecting their public.

A. I do not see it.

BY THE CHAIRMAN:

Q. Why do you say they put the stop order on? Because they were being sold at too high a price?

A. No; they were traded over-the-counter lower than the others. Had they been traded higher, they would have the same stop order, probably.

BY MR. JOLLIFFE:

Q. Traded by shareholders?

A. Yes.

Q. On the face of it, that may seem unfair, Mr. Cadesky, but is it not possible if that sort of thing happened regularly -- is it not possible that shareholders here could unload their stock after an issue had been qualified in the United States?

A. That could be true, sir, but the fact remains, how can we who want to qualify an issue, control the shareholders whose shares he has paid for and owns? He can give them away, if he wants to.

THE CHAIRMAN: Oh, but he cannot. If they were in the hands of the general public, he could not do that.

BY MR. JOLLIFFE:

Q. I am pointing out there could be cases -- I am not saying it happened in your case -- but there might be a case where a promoter held a lot of stock, and when people began to take an interest in it, because one million shares had been qualified in the United States, they could get rid of their stock here?

A. That may be.

Q. What was the S.E.C. afraid of?

A. That was qualified for the purpose of putting

sufficient money into the treasury to put the property into production. We had spent several months, and an awful lot of money to get that thing created.

Q. That was the last time you tried it?

A. Well, that was enough.

BY MR. JAMES:

Q. I can see their point. I think they were justified.

A. I cannot see that they were justified.

BY THE CHAIRMAN:

Q. Supposing they were, or supposing they were not; what difference would that make. If they think they were justified, and Mr. Cadesky thinks they were not; what about it? What difference does it make to us?

A. If a man wants to qualify an issue, he might as well qualify a "moose pasture", which has no shares outstanding, and he might be in a good position. If you develop a property partially, you must have shares out, and if you have shares out, what will a man do?

BY MR. GRUMETT:

Q. Was that pointed out to the S.E.C.?

A. Of course it was. I spent three or four days at the hearing down there. I spent a lot of time and

money, and brought all my books and everything else, to show there was not a share^{sold}/by either the promoter or the company, or anybody else.

I even brought down a copy of the trust company's transfer sheets. We had everything we possibly could produce.

BY MR. JOLLIFFE:

Q. Did they require vendors' shares to be escrowed, pending this offering?

A. No, they required about the same as we do. They required full and true disclosure. In many cases their spread was more than ours.

THE CHAIRMAN: I think we were told that. They are not concerned with the legitimate sales to the public.

A. I am pretty sure I have seen issues there we would not qualify here.

BY MR. JOLLIFFE:

Q. What have you to say about this problem of the "front" men? We discussed it in some detail with Mr. Lennox, who is, of course, the Chairman of the Securities Commission, and with Mr. McTigue, counsel for the B.D.A. What have you to say about the "front" men? Do you think they exist, or are they just an

invention?

A. I would like to know the interpretation of the word "front". Of course, there are so many interpretations of "front", that I do not know what you mean by a "front". Everybody has different ideas of "fronts".

Q. I am using the word in the same sense in which it has been used in decisions by the Ontario Securities Commission, that is to say, a registered broker-dealer who holds himself out as an independent operator, and being in business on his own account, but who, in fact, is financed by and controlled by, and is doing business on behalf of, an undisclosed person.

A. My interpretation of "front" is a man acting for a man who cannot get a license himself.

Q. That is probably the situation here.

A. There is a difference, in my opinion, between certain "fronts". Some of them are well-qualified men who can act for somebody else, with the knowledge of the Commission, if they want to. I would not consider him a "front" as long as he is a responsible man, and is responsible to a registered broker-dealer.

BY MR. JOLLIFFE:

Q. When the Commission licenses a man to do business as a broker-dealer, they look into his record to satisfy themselves he is a responsible citizen, and

capable of conducting the business. It is impossible for them to know if he actually is independent.

In the first place, if he is not independent, and tells them he is, he is deceiving the Commission and that very fact makes him unsuitable to have a license.

A. I know several who declared they have had financial assistance from somebody else, but that does not make them a "front".

Q. I think we understand that. A man is not necessarily a "front" because he owes somebody a little money.

A. That is right.

Q. But in a number of cases, the Commission has disqualified people, and cancelled their licenses, because they became convinced, after an investigation, that while a man claimed to be independent, he was, in fact, just acting as a messenger boy for somebody else.

A. I think you will find that the Commission had other circumstances to warrant that, because if a man has been in business and is clean, and has not done anything wrong, the Commission has no reason to bother him.

Q. That might be, but what do you say as to the statement we have heard that there are a number of

"fronts" doing business as broker-dealers?

A. I think it is exaggerated, many times over.

BY MR. JAMES:

Q. Maybe they are their own "fronts"?

A. There may be the odd one, but I think the statement of a "front" as I read it in the newspapers, has been exaggerated many times.

Q. You think there are no "fronts" where a broker has lost his license?

A. That may be, but I think it has been exaggerated. I think most people who start in the business, intend to stay in the business. I do not think anybody would want to "stick their necks out" for somebody else.

BY MR. JOLLIFFE:

Q. If they had no resources of their own, they might be willing.

A. They may be willing, after they get in, to get some financial assistance, but I would not consider that as a "front", because he knows his business, and if he thinks anybody will get him off the track, and get him to do something that is not right -- I think it is exaggerated.

BY MR. JAMES:

Q. I do not think the "fronts" referred to

that kind of a man at all, as I understand it.

BY MR. JOLLIFFE:

Q. There was a recent case where the B.D.A. did an audit, and they found a man was short in his capital requirements laid down by the B.D.A. The next morning he walked into the bank and deposited ten thousand dollars in one thousand dollar bills. The Commission thought that was significant. Would that not look to you as if he was getting money from some place he did not want to be known?

A. That may be an isolated case. You do not very often get ten thousand dollars in one thousand dollar bills. I cannot comment on it, because I do not know the circumstances. We have investigated a lot of things in the B.D.A. and many times we have found a lot of things were well over-exaggerated by people who had jealous motives, and when we tied it down, we did not find much ground for it.

Q. I think we all agree that this is a business where a good many exaggerated statements have been made.

THE CHAIRMAN: On all sides.

THE WITNESS: That is right. All in all, I think the broker-dealers try to do a good job. Sometimes, they get a little over-enthusiastic, but they do

that in many other businesses.

THE CHAIRMAN: Without enthusiasm, how could you sell stock?

THE WITNESS: You could not.

BY MR. JOLLIFFE:

Q. You did not find fault with any of the restrictions recently imposed by the B.D.A.?

A. I have not found any fault with them. I think they are trying to better the business, as circumstances arise. We have different conditions from time to time, and you may have to cope with them, according to the conditions as you find them.

Q. You are satisfied with the present Act?

A. Well, it may be a little more simplified, from the point of view of the prospectus, where the average layman can read it a little more intelligently.

I have made a note of a few things I might suggest, if you wish.

THE CHAIRMAN: It is nearly half-past twelve, and I told Mr. Jolliffe I have an appointment. May we adjourn at this point until half-past two?

Is that all right with you, Mr. Cadesky?

THE WITNESS: Yes, certainly, Mr. Chairman.

THE CHAIRMAN: Very well, then we will adjourn
until two-thirty this afternoon.

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---The witness temporarily retired.

---Whereupon the further proceedings of this Committee
adjourned until this afternoon at two-thirty o'clock.

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A F T E R N O O N S E S S I O N

Toronto, Ontario,
Wednesday, October 3rd, 1951,
2.30 o'clock, p.m.

- - - - -

The further proceedings of this Committee re-convened pursuant to adjournment.

All parties present (Excepting Mr. Donner).

Same appearances as heretofore noted.

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THE CHAIRMAN: Gentlemen, shall we resume?

LOUIS CADESKY, a witness being previously heard, now recalled, and who having been already sworn continues his testimony as follows:

BY MR. JOLLIFFE:

Q. What was it you were going to suggest?

A. I had a note made. I was going to suggest that the important things in a prospectus are:

"(1) What is the company's name?

(2) What is its capital?

(3) Who is the promoter?

(4) Who are the directors?

- (5) Where are the properties?
- (6) What have they found on the properties?
- (7) What do they hope to find on the properties?
- (8) How much money is it going to take to prove or disprove the same?
- (9) Where is the money coming from?
- (10) How much of each dollar I invest is going to be available to prove or disprove the property?".

If we had prospectuses of that kind, that would be very simple, and that is what the public wants to know.

BY THE CHAIRMAN:

Q. In fact, that is pretty much what the prospectuses now tell us, but perhaps it is not couched in quite the same way. There are a lot of other things in a prospectus, but those you think are essential?

A. Yes, from the public standpoint.

BY MR. JOLLIFFE:

Q. You were, I believe, a member of the Board of Governors of the B.D.A.?

A. Yes.

Q. Back in 1948 or 1949, when they were advocating the removal of the restrictions on telephone

calls. Do you recall that?

A. I remember it.

Q. Was that a change that you think now, or thought then, should be made?

A. I think the telephone does not hurt at all, because, (1) the prospectus is issued to prospective buyers, before they get the telephone calls. A prospective buyer must have sent a return card saying he is interested in receiving information regarding a certain property about which they are talking.

After he receives the information, if he gets a telephone call, and the salesman persuades him to purchase an issue or some shares, a confirmation is sent by the broker. The man has a lot of time to think over his transaction. He has a lot of time to change his mind.

I do not know of any confirmation that ever bound a client. I do not think any broker ever insisted on a client going through with a deal, if he did change his mind. So they have a lot of time to think things over before the cheque is actually sent to the company.

Therefore, I see no reason why the telephone should not be used.

Q. You see no reason why it should not be used?

A. That is right.

Q. And the other proposal put forward by the B.D.A.

at the same time, was that it was not necessary for a prospectus to be delivered in every case.

A. They felt at that time that the securities business was the only business where a man could not call anybody he wanted to. You could call on anybody if you were an insurance man, or you could call on anybody if you were a Fuller Brush man, or you could call on anybody if you were anybody else. But in a securities case, you could not call on a man unless you actually knew him, or received a return call saying, "I am interested in this particular issue".

That was unfair competition with other lines of business. That was what we objected to at the time. I think that is a partial reason for some of the mailings, because you cannot go and call on a man unless you are sending out some mail, and getting a qualifying leave.

Q. You say that is the reason for some of the heavy mailings?

A. A man has no alternative. He cannot send salesmen out on the road to try and create clients, because he cannot call them unless the man sends in a return card saying he is interested in a particular issue.

Q. Did you, yourself, exercise any influence over that literature which was sent out from broker-dealers sponsoring your issues?

A. Did I?

Q. Yes.

A. No. I was one of the committee we had formed, when I was with the Broker-Dealers' Association, to see that our literature was coming up to a higher standard.

THE CHAIRMAN: I do not think that was quite the question.

BY MR. JOLLIFFE:

Q. No, my question was this; in your experience as a promoter, since you ceased to be a member of the B.D.A. -- the Broker-Dealers -- have you exercised any influence or control or restraint over that sort of literature sent out by a broker-dealer, sponsoring issues in which you were interested?

A. No, I did not. I gave them the information available to the company, and each man was responsible for himself. They have to go through the broker-dealers and have it perused.

Q. You did not interfere--

A. I could not interfere. I took no action on their operations. I was strictly independent.

Q. And if he got into trouble, and a broker-dealer had his license cancelled, in the middle of his

offering, it would affect your company?

A. Well, the information he got from our company. When you take your literature to the Broker-Dealers' to be perused, you have to show factual information, and the information he gets from our companies is factual, and if he used that information, he could not get himself into trouble.

Q. We were told by a witness on Monday that when a broker-dealer has his license cancelled, in the course of a distribution, that is the end of that offering; that it gives the company such a black eye that the thing is finished. He described it as "pulling the plug", and he put the blame on the Securities Commission for bringing to an end the business of a company which might turn out to be a very meritorious enterprise.

THE CHAIRMAN: That was Mr. Sutton's story.

BY MR. JOLLIFFE:

Q. What do you say about that story?

A. That may be so in some cases, but it has not affected any issue in my cases.

Q. Well, Junior Golds; that company lost its license?

A. Yes.

Q. During the course of distribution?

A. Yes.

Q. And you were interested in those issues, were you not?

A. No, I was not.

Q. Were not these companies formed by you?

A. They were formed at a later date. I amalgamated the three companies into one, and called it the "Consolidated Yukeno".

BY THE CHAIRMAN:

Q. That was after Junior Golds lost its license?

A. Yes.

BY MR. JOLLIFFE:

Q. If Junior Golds lost its license, you found it possible to get the thing going again, in spite of the fact of this previous trouble?

A. Yes.

BY THE CHAIRMAN:

Q. Were you interested in those companies before the trouble started?

A. No, it was after. I had acquired 115 or so other claims joining and adjacent to these properties, and we grouped them all together, and we made a compact property, which they had a much better chance of

carrying on.

It made a very nice set-up. As it was, they had little pieces here and there, and I filled in the gaps, by purchasing other ground adjacent, and taking in this other ground.

BY MR. JOLLIFFE:

Q. And a new public offering?

A. Yes.

Q. They have been successful?

A. Yes.

Q. In spite of the previous trouble?

A. They seem to have become very successful.

MR. JOLLIFFE: That seems to be a definite answer to what we were told the other day.

BY MR. JOLLIFFE:

Q. Have any of these issues of which you were the promoter been brought to a halt in mid-passage by the suspension or cancellation of the license of a broker-dealer?

A. No. I am only an individual. I do not know whether I am in the same position as the others or not. I am always in a position to transfer a deal to somebody else, or finance the deal regardless. I have had many cases where I carried on, regardless of whether

the issue was sold or not.

Q. That is not quite what I was talking about, Mr. Cadesky. I wanted to be clear about this. Has there been any suspension or cancellation while an issue of one of your companies was in the process of distribution?

A. I am sorry, I just do not "get" that.

Q. You promoted a number of companies?

A. Yes.

Q. And you have caused agreements to be made with the broker-dealers?

A. Yes.

Q. In which the broker-dealer had the right to take down stock and sell it by way of a primary distribution to the public?

A. Yes.

Q. In a number of cases dealt with by the Ontario Securities Commission, a broker-dealer has had his license cancelled or suspended while he was in the middle of a public distribution. My question does not relate so much to yours, but as to what happened to a broker-dealer while he was engaged in the distribution of shares taken down from one of your companies?

A. It has happened, and I could say it would not do the company any good. It certainly could not

do it any good.

On the other hand, in one case when I was with the Broker-Dealers' Association, and a suspension was expected, we got together with the issuer and revamped his deal, and made it so that it would look more presentable to the public. And they have carried on since, and probably done well -- I do not know.

I will say that a suspension does not do a company any good.

Q. I would not expect it would, particularly not for the time being, anyway.

A. No.

Q. You would have to bring in another broker-dealer into the picture?

A. That is true. He has to overcome something.

Q. He has to overcome the adverse publicity of a suspension, even though he was not responsible nor the company was not responsible.

A. I would say the deal has to be a good one, for him to be very much interested in it.

Q. From what I understood you to say, you do not take any interest in the literature or the selling methods of a broker-dealer after he has an agreement with the company in which you are interested.

A. I do not interfere with a broker-dealer. That is his function.

Q. Yes, that is his function.

A. Yes.

Q. And if he breaks the rules, and gets into trouble, as you say, it would not do your company any good?

A. No.

Q. But you do not interfere?

A. No. I cannot interfere, for the simple reason that if I do, I might as well have my own company, and run my own business. If I am going to run his business for him, I might as well run my own for myself. I sold my business for the simple reason that I could not take care of both.

BY MR. HOUCK:

Q. But you are taking an interest in the way he handles the promotion?

A. It is understood, before I go into a deal, that he is to get no information other than that given by the company. That is a mutual agreement which we have. He is not to publish any information other than that furnished by the company, from a factual standpoint.

BY MR. JOLLIFFE:

Q. I suppose you also rely on the fact that his literature is perused by the B.D.A.?

A. Yes. They do not let a copy of literature go out, without factual information.

Q. You are aware of the complaints made from the United States, and also in many Canadian papers, that the literature that goes out -- or some of the literature which still goes out -- is improper literature? For instance, Mr. McDonald, of the S.E.C. described a lot of it as "plain, unvarnished fraud". What do you say about that?

A. I do not think that would get by with the B.D.A.

Q. You do not think "plain, unvarnished fraud" would get by?

A. No. They watch it very closely. I believe they are doing more so, now.

Q. Let me quote you this paragraph from Mr. McDonald's letter to this Committee, in which he asks the question:

"What are the promotions against which we have protested so vigorously over the years".

And then, in the next paragraph, he goes on

to say this:

" We have found these promotions to be characterized by a striking uniformity in modus operandi. Apparently any innovations are quickly discovered and widely imitated. The approach to the investor, the lure or bait offered to him, the misrepresentations made, chiefly over the telephone, are very much the same irrespective of the particular dealer involved or whether the security relates to a gold mine, uranium mine or oil property. Indeed, in certain cases we have found the promotional literature for separate ventures to be identical, except for the name of the security. In view of these facts, we believe we are warranted in describing these promotions in general terms. Although the volume of promotions may vary from time to time, sales campaigns attended by some or many of the devious methods and misrepresentations described below continue up to the date of this letter. There has been some recent improvement in the quality of the literature mailed to the States, but misrepresentations in the familiar pattern continue to be made, chiefly over the telephone".

What do you say to that statement. I am sorry, it was not Mr. McDonald who wrote this letter, it was Mr. Richard B. McEntire.

A. I do not know how that statement can be true. If any issue is brought to our attention, we look into the issue, and if we found it was true, we naturally stopped it.

But pretty nearly every issue I know of was pretty well scrutinized by the Broker-Dealers' Association. There may be the odd one which got by, but they are in the minority. I can see no reason for that at all. Certainly the Broker-Dealers' Association never stood for misrepresentation; neither did the Ontario Securities Commission.

Q. Then you say there is no foundation for that kind of criticism?

A. I do not think there is. I think it is well over-exaggerated.

Q. How do you account for the fact that much the same kind of criticism has appeared in some of the press in Canada?

A. I do not think I should comment on that.

Q. Is there nothing in this at all? Are you saying that these protests from the United States, and the articles which appeared in McLean's Magazine and the

Financial Post, and some of the papers in the West, in Canada, is all "bunkum"; that they do not know what they are talking about?

A That is as far as I think I want to comment. I think I have said all I have to say on it.

Q Why do you want to comment? If it is your opinion, you are quite entitled to say so.

A I did say that I did not think that it was misrepresentation or fraud, and that the statement was much over-exaggerated. I do not believe the Broker-Dealers' Association will let go out anything which has misrepresentation in it. If it were allowed to go out, the broker-dealer would not be in business.

Q And, of course, some of them have been put out of business -- quite a few of them.

A Well, what else can you do?

A There is another paragraph which might be interesting to you, in view of something you said this morning.

Mr. McEntire says, describing the type of misrepresentation, or what he alleges to be misrepresentation, at Page 5:

"In promotion after promotion, investors also are told that the stock is about to advance materially in price. In this connection they may be told that a well-known company of good repute is about to buy in or, as often happens in uranium ventures, that the U.S. or Canadian government was about to contract for the company's output."

A I cannot comment on that, because I do not know whether it is true or is not true.

I know when I was a broker I would not tolerate that. I would not let my men do so. They had to stick to the facts, and if the facts were not good enough, then the client did not have to buy the issue.

There is one thing we have told the S.E.C., "You tell us where there is any fraud or misrepresentation; you write to us and we will take action". And we never got any indication when I was there.

We have told them, "If you have any information to show us where there is fraud or misrepresentation, we will take action", and we never had any opinion from

the United States government to that effect.

We challenged them to bring in anything that was wrong. They did not give us any indication of any individual case. All they did was holler about it.

Q Then he goes on to say:

"They almost always are told that no risk is attached to this type of 'investment'."

Is it not correct, Mr. Cadesky, that now many brokers are using the statement, "This is a speculative issue"?

A Well, at all times we had to put on "This is a speculative issue."

If they will read the prospectus, they will find that it is a speculative issue, and anything that is speculative, is not a sure thing.

Q Is this not a speculative issue?

A No. It is a warning that it is speculative and they should read it. What else can you tell them?

Q I am suggesting that is being done now and has been done recently, but it was not being done until recently?

A The business is the same as any other business,

and improves as it goes along. You do these things until you find they are wrong, and when you find they are wrong, you try to correct them. There may be a mistake to-morrow, and we will correct it the day after.

These things come up, and as they come up, we take care of them.

BY MR. VILLENEUVE:

Q Is there any reason why we should not state whether it is a listed or unlisted stock?

A I do not think that is necessary, because I am sure if any issue is listed, they are only too anxious to put it on. I do not think anybody has any idea that a deal is unlisted when it is listed, because you always say, "Listed on the Toronto Stock Exchange."

Q The purchaser very often does not know the difference.

A Well ---

BY THE CHAIRMAN:

Q Are there many complaints from purchasers about the shares they buy?

A I can tell you that all of this publicity is over-exaggerated, because in fifteen years, I do not think I have had half a dozen complaints, and of those who did complain, I did not want to do business with them anyway, and I just took them off my books, and bought up their stock. I do not want any dissatisfied customer.

Q They do not complain when a stock goes up.

A No.

Q It is only when it goes down.

A Yes, they only complain when the stock goes down.

Q Did many complain that they were misinformed or misled by the literature?

A As a matter of fact, you get all types of people who complain. I know of one instance now which was brought to my attention which, in my opinion, was out-and-out blackmail. A man buys a certain issue, and after keeping it for a year or so, and the thing does not make good, he writes back to the broker-dealer and says, "I will inform the Ontario Securities Commission, and the S.E.C., if I do not get my money back." The broker does not want to have any investigation, and does not want to have

any trouble with the client, and he wants to keep it clean, and he writes, "I will send you back your money".

Then the man comes back and says, "I sent you American funds", -- when he did not. He says, "I want payment in American funds". Then the broker says, "All right; it is only a matter of \$50.", and he sends him the \$50.

Then the man says, "I lost a year's interest, and I will have a year's interest or I will write to the Securities Commission or the S.E.C."

At the same time, that man wrote another letter to a broker -- and he showed me the letter -- and he wrote exactly the same type of letter.

Those are a lot of things which the S.E.C. does not know, and which the public does not know, and they are things which we always have to contend with. They are going on all the time. Nobody wants to go before the Commission or be put out of business, and they seem to be afraid to go to the Commission and say, "Here are the facts."

BY MR. VILLENEUVE:

Q Are the broker-dealers afraid of the Commission?

A It is not because they are afraid. They feel they do not want to be investigated, or implicated in a thing like that. I do not blame them.

BY THE CHAIRMAN:

Q That is what happens in businesses of all kinds.

A Certainly.

Q The T. Eaton Company will accept goods and refund the money, whether there is any real foundation or cause for complaint or not. Some people buy dresses, and wear them out to a party that night, and return them the next day.

A That is true.

Q And the T. Eaton Company will refund the money, because it is their policy, and they think it is good business to do that.

A I believe every broker wants to play fair with his clients, because his clients are his bread and butter. Without them, he cannot exist. And it costs a broker a lot of money to create clients. If you do not play ball with them, it costs you too much money to get another one.

Every satisfied client is an asset, and will bring in two or three more. I know the value of

clients, and I think every other broker does too. I know they are my bread and butter.

MR. JANES: Mr. Cadesky had some suggestions I thought were pretty good. Should they not be filed?

THE CHAIRMAN: They are on the record.

MR. JOLLIFFE: They will be in the transcript.

THE WITNESS: All in all, I think the public is getting a fair run for its money. They cannot all win.

BY MR. JOLLIFFE:

Q I would like to give you an opportunity to comment on Mr. McEntire's next sentence, in which he says:

"And finally, in case after case, the misrepresentation is made that the monies invested will be devoted to the development of the property. As you know, this cannot be true in these mass-mailing promotions which require substantial expense for writers, layout men, salesmen, printing,

mailing and telephoning and thus necessitate extremely high mark-ups if the deal is to be a profitable one for the stock seller."

A Do you believe a man who reads the literature, will not read the prospectus?

Q No, I think most people will not bother reading the prospectus.

A If I did not bother reading the literature, I might not read the prospectus, but if I did read the literature, I would read the prospectus as well.

Q The literature is usually presented in a little more appealing form than the prospectus; it appeals to the eye a little more.

A They have to put their best foot forward.

Q Certainly. As a man of great experience in this business, I would like you to say frankly what do you think of the suggestion that a marketing of stock involves so much cost that an excessive mark-up is inevitable? What have you to say to that?

A Well, I do not agree. I do not agree that the costs to-day are more than the cost in the older days, where you had to send salesmen out, and you had to pay for their car expenses, and you had to pay their hotel expenses, and so on, and so forth,

and they probably saw at a maximum ten or fifteen people over a period of a week, and probably went hundreds of miles to see them.

To-day a person can get on the telephone, and if he has big enough clientele, he can get to the fifteen people in one day --

A Or in one evening?

A Yes, in one evening. So the cost to-day is not more than it was in the old days in proportion to the amount of business to be done.

I know this much; that judging by my own salesmen, it cost more in the olden days for the salesmen to be travelling on the road, and to cover their expenses, than we have to pay out over the telephone.

Q I understand the present spread permitted by the B.D.A. on initial stock offering is from 10 cents to 30 cents.

A That is right.

Q I am saying that at a maximum the spread is between 10 cents and 30 cents.

A That is true, but it does not work out that way.

Q I know that.

A A man gets 30; that is the maximum. He may

start with 12 cents or 15 cents, and if he has any decent luck, he may go up to 30 cents, but that is as far as he can go. It does not mean he can start right "off the bat" and sell it at 30 cents.

Q I appreciate that, but we had information yesterday about an offering where the public pays \$1.00 and 50 cents goes into the treasury. What I am getting at is this; to a layman, Mr. Cadesky, it seems like a very, very costly way of raising money. Maybe it is inevitable; maybe it is unavoidable.

A How can you do it any differently?

Q Well, if one man can do it more cheaply, he probably will.

A Yes.

Q He would sell more stock if he could do that.

A That is quite true.. When I buy a suit of clothes, it is not the actual cost of the suit of clothes. There are perhaps three times as much put on to it, as there was in the original cost. Yet I do not complain. I want it and I buy it. It is the same thing with anything else.

Q Does it not come down to this; in a speculative issue, the purchaser has a chance, or thinks he has a chance, of making a very substantial profit?

A That is true.

Q If the value of the stock goes, say, to 5, 6 or 10 times what he pays for it, the spread seems insignificant.

A That is true.

Q But if the stock goes down, and the mine turns out to be a "dud", the spread seems to be very large.

A That does not make any difference. If the stock is no good, it does not matter whether it is a 10 cent spread or 50 cents.

Q That is right, but it does make a difference if a man puts in \$100. and gets a thousand shares, or puts in \$100. and only gets five hundred shares.

A One hundred shares at \$1.00 is as good as one thousand shares worth ten cents.

BY THE CHAIRMAN:

Q And if it goes up to \$500, in due time, that \$50. does not seem to be more than a drop in the bucket?

A That is right.

MR. JOLLIFFE: Just a minute, -- as Wessley Hicks says; there is more to it than that. If, on

an offering, you only get, say, \$200,000 out of the public, and you need at least \$150,000 to either prove or disprove what you want to know, then the mark-up does enter into it. It is quite vital whether or not the mark-up is excessive.

A No, it does not matter to this extent. It is not difficult to get money after you prove a property. You do not have to pay two-thirds or one-half or ten percent. to get money after you prove property, so it does not make any difference.

Q Suppose you did not get enough money to prove it or disprove it?

MR. JAMES: Suppose you sell one million shares at 50 cents, and you only got 40 cents, if you sold two million shares, and only got 20 cents, you would get the same amount of money?

A Supposing you raised \$200,000 for a property, and it took \$200,000 whether this property is a mine or not. If you need another \$500,000, it will not cost you as much money to get the \$500,000 as it did the original \$200,000.

BY THE CHAIRMAN:

Q What difference does it make? The original

shareholders get the benefit.

A Yes.

MR. JANES: They put twice as much money in as they should.

THE CHAIRMAN: No, no. If you could not sell it in the early stages, nobody would have any opportunity to get anything at all.

MR. JOLLIFFE: No, that does not follow. If you need \$200,000 to prove it or disprove it, and if you do not get \$200,000 -- if you get only \$175,000 or \$180,000 then, unless a promoter or somebody else goes in with the difference, you have just not got the money.

THE CHAIRMAN: If the spread was too small, you would not get the first \$200,000.

A In a case I know of, the under-writing will produce sufficient money to do the development work.

BY MR. JOLLIFFE:

Q Are you talking about the under-writing or the options?

A The under-writing.

Q A firm under-writing?

A I am talking about enough to go ahead with it. There is sufficient stock to go on with the development.

Q If it is taken down?

A Yes, and if it is not worth it, they cannot sell the stock.

Q How do you know the stock is worth it or not until you prove it?

A I am referring to the stock. Supposing you have to pay fifty cents to the treasury. Your option gets to the stage where you have to pay fifty cents to the treasury, then you have to sell at 75 cents or one dollar to break even. The public would not buy it at that particular price, if it was not proven up to the stage where it really warrants that amount of money.

Q That is another point. You are dealing with an ascending scale of prices?

A That is right.

Q The fact is, if the money raised is not sufficient to show you should go on with the thing or not, then you are no further ahead, after the offering --

A Then we have only one other remedy to it,

and that is simply this; you have to get money from a lot of small people who cannot afford to pay it. You have to get the engineer's estimate of what it will cost to get it to a certain stage, and you have to get a broker or under-writer or promoter to guarantee that amount of money. That would be very, very nice, if you could do it. I say that would be very, very sound business.

Q But has that not happened in some cases, Mr. Cadesky.

A Yes. I have done it myself, but how many can do it? Would you get a broker who will take a firm under-writing and take it for \$150,000; when his whole capital is only \$5,000?

Q No. If the resources of this country have to rest on that fragile foundation, it cannot be done. I will agree with that.

A Yes, but the broker who has \$5,000 to-day may be a major operator in time. They all have to start somewhere.

BY THE CHAIRMAN:

Q You will not close out a man because it is his business to sell stock.

MR. JOLLIFFE: No, not sell him out, but we should not "kid" ourselves that he will develop this country on a shoe-string.

THE CHAIRMAN: There a number of them who have done it.

THE WITNESS: A number have started with a small capital, and they have run into a lucky streak, and become very, very important mining people to-day.

THE CHAIRMAN: Many of them started very small.

THE WITNESS: Yes.

BY MR. HOUCK:

Q Harry Oakes is a good example.

A And there are others like him. Many of the important men to-day started very small. How will you do it? That is the only one you can get, perhaps.

BY MR. JOLLIFFE:

Q Mr. McEntire raises another interesting problem. We have discussed it with other witnesses.

He says, in the next sentence:

"In addition, vendors' shares are involved in these distributions, and the proceeds therefrom do not go to the companies' treasury."

A That is disclosed in the prospectus.

Q Yes, that is so. We were told by Mr. Lennox what the situation is with regard to vendors' shares. We were told also that in the opinion of some people in the business, the big problem is not excessive mark-ups, but vendors' shares; or how many vendors' shares are free, or how many of them are sometimes used to take the floor out from under the market.

What do you say about that?

A I do not think that is exactly so. A man who has a vendor's position certainly is interested in seeing that the property is developed. The only thing that he can make out of it is when the property is developed, to make his shares valuable. He will not sacrifice them, if he thinks there will not be sufficient money to develop the property.

Q Is it customary for a promoter to get a bloc of vendors' shares?

A Of course, that is the only compensation a promoter can get.

THE CHAIRMAN: That is what he described this morning.

MR. JOLLIFFE: That is right.

BY MR. JOLLIFFE:

Q Some of them are free? They are not all escrowed?

A No, the customary practice is ten percent. of the vendor's position is freed at the time of the under-writing. Then, as money is being put into the treasury, and development is carried on -- and it depends on the development the amount of money which is put into the treasury before the Securities Commission will release any of the stock. You just cannot walk up and pick up the release of stock, and get it. You have to send in a financial statement and an engineer's report, and if they think there is sufficient work being done, and the company has not suffered, they will then release you some shares.

I think that is very sound procedure.

Q Supposing in a three million share company, Mr. Cadesky, there are 750,000 of these vendors'

shares, and ten percent of the 750,000 are escrowed
-- that is, 75,000 shares?

A Yes.

Q And the ten percent of those come on the
market for primary distribution to the broker-dealer?

A Yes.

Q So presumably somebody is sitting there
with 75,000 shares he could put on the market at any
price?

A I do not think any good promoter would act
against his own interests, and be in competition with
a broker-dealer distributing his stock.

BY THE CHAIRMAN:

Q He would have to sell it?

A Yes.

Q At that early stage, there would be no market
for it?

A That is so, but he would have some arrange-
ment with the broker-dealer.

BY MR. JAMES:

Q He would have to deal with a broker-dealer?

A Yes, and the broker-dealer would give him a
deal.

BY THE CHAIRMAN:

Q He hopes that this stock will be of much greater value than at the early stage, and he will not spoil the market, unless he is desperate for money.

A I know when I was a broker, in many cases where I bought an issue, where the vendor had some stock, I more or less tried to either take an option on the stock, or come to a deal with him, so it would not be against me. I would not make a deal if the stock was out against me.

BY MR. JOLLIFFE:

Q You do not think there is anything in this complaint which was made lately -- I think it was made by the present Board of the B.D.A. -- that there should be some restriction on promoters' stock or vendors' stock.

A I do not think so.

When you make an application for release of vendors' shares, it is sent up to the Securities Commission, and the Securities Commission then sends it up to the Broker-Dealers' Association for their comments on it, and in all cases in which I have been interested, they practically always concurred with

the request. I do not think at any time it has been an unreasonable request.

Q You are discussing shares which are escrowed, and which had to be released before they can be sold?

A That is right.

Q I am discussing the promoters' shares which never were escrowed, and I am not giving you my own opinion; I am passing on the opinion expressed by others, particularly lately by a governing body of the B.D.A., that vendors' shares are more of a problem than mark-ups.

A When I was on the price-spreads committee of the Broker-Dealers' Association, it did not matter whether a man had the shares free, or had not. We were interested in seeing there was a certain amount of money going into the treasury, and we tied up shares which were free. Regardless of whether they were free or not, we tied them up. I think that is their policy now. We did not care if shares were free. We were not going to have them sell free shares and not put any money into the treasury. That was part of our function. But we had no trouble with our members. We had to show them the reason for doing it, and we did.

Getting back to Mr. McEntire; I was on the Committee of the Broker-Dealers' Association when we tried to work out with them a deal whereby we would have uniform prospectuses, which would be approved by one or the other, and approved by each province and each state.

We worked along there and spent a lot of time and money trying to work with them, but we got nowhere. We were willing to co-operate with them, one hundred percent.

Q Did you attend the meeting in Washington?

A No, I did not attend the meeting in Washington, but I was on the Committee which attended the meeting along with him.

We hired a lawyer down there. He was our liaison officer, and we carried on negotiations for a long time, and we had several meetings with him.

We worked along these lines, and tried to co-operate and work with him.

We went further, and told them if they could find us any case where there was fraud, we would take action here. We have no complaint that I know of.

THE CHAIRMAN: Mr. McEntire's letter is written

in a very general form.

MR. JOLLIFFE: Yes, they have general complaints. They have not seen fit to make available any evidence.

THE CHAIRMAN: Nor have they seen fit to come up and assist this Committee.

THE WITNESS: We would not stand for it, if we knew there was fraud, but we were not taking somebody's word for it, without giving us a chance to find out.

BY MR. JOLLIFFE:

Q Mr. Cadesky, do you know anything about this new development in the United States recently regarding restrictions on dealing in Canadian securities by United States brokers? Perhaps I had better explain that by reference to a paragraph in Mr. McEntire's letter. He says:

"We already have noted how for a number of years certain Canadian securities have been distributed in the United States without registration, either for issuers or at the instance of holders of large blocks of vendor and option shares. Usually

this has been done by mail-order and telephone solicitation with orders being transmitted direct to the Canadian dealer. More recently, we were advised of circumstances which provided cause to believe that a different device for effecting these illegal distributions was being used. We were apprised of situations in which certain investment advisers and Canadian dealers were telling our residents to place orders for securities, which presumably were the subject of illegal distribution in this country, with U.S. brokers. We assume that this was done on the theory that since the transaction by which the security would then be acquired would constitute an unsolicited brokerage transaction, it would be exempt from the registration requirements of the Act. Thus, it apparently was hoped that a ready-made mechanism for effecting these unlawful offerings would be provided through domestic houses. The Commission, however, did not share these views and our domestic brokers were, therefore, warned of the possible liabilities under our laws if orders for

securities in the process of distribution in Canada were executed, for the reasons following."

And he gives a number of legal reasons.

Did you hear about that?

A Yes. They instituted a ruling from an old Act they got off the shelf, that the deal was not out of primary distribution, and, if it was not, it would be illegal for an American broker to deal in it. If it was out for over a year, he had the right to deal with it. That was sent out to try and stop the American public from buying Canadian issues. But that did not do any good. People who are going to buy, will buy, regardless.

Q You mean this is still going on in the United States, but orders are still coming in?

A Orders are still coming in. If a man wants to buy, he will buy.

Q That is a reference to something a little different. This refers to the American buyer placing his order with an American broker, and then the American broker would have to place an order in Toronto.

A That is right, or through their correspondents. Nearly every broker has a correspondent here, or agent,

or whatever you call them.

Q Do you know whether it is true, as he suggests, that this thing originated from over here, that brokers here suggested to their American friends they should place their orders with the U.S. houses?

A No, I do not think that is it. I think that came about more or less from financial counsel, making recommendations of certain stocks, and they naturally would go to their own brokers and try to execute the orders.

We have financial counsel here who get paid for their services, and they make certain recommendations, and naturally a man who lives over there will go to his broker, and say, "I want to purchase this particular stock."

Q You are speaking of the Toronto investment counsellors?

A Toronto, or any other part of Canada.

Q It would not be the American investment counsel?

A It may be the American investment counsel, too. They have recommended certain stocks.

Q Mining stocks?

A Yes.

Q You think maybe that is where the idea emanated from -- from the investment counsel?

A Yes, that is the only reason I can see. It is quite obvious that the man who pays for advice in regard to a certain stock, will listen to it, or he would not pay for it. Then he goes to his own broker. That is where he should go.

Q I have seen some of the advice which went out from these investment counsellors, some of whom are not now licensed, and they have some strange ideas in regard to certain groups of securities?

A Yes.

Q That may be why some of them are out of business now?

A That is quite true. I have never used one. I do not know much about it.

Q You mean you never took their advice?

A I never used one.

THE CHAIRMAN: He means he never needs one.

I think we will recess for a few minutes.

---Whereupon a short recess was had.

---Upon resuming.

THE CHAIRMAN: Gentlemen, we will resume.

BY MR. JOLLIFFE:

Q Now, Mr. Cadesky, you have told us very frankly that you are and have been a promoter for some years, and that you have had some degree of success with certain companies of which you are not a director, but a substantial stockholder; is that correct?

A That is right.

Q I think I would like to know a little more about the practical side of the thing. Have you operated alone entirely, or is it your practice to operate in association with other promoters?

A In most cases, alone.

Q In most cases, alone?

A Yes.

Q In some cases, you have been associated with others?

A In some cases I have had to have assistance, or I wanted assistance. The field may be too big for me to take the whole thing myself, and I may give part of it to somebody else.

Q Take the case of Silanco; did you promote

that entirely yourself, or in association with others?

A I originally promoted it myself, all the way through.

Q And Yukeno?

A And Consolidated Yukeno?

Q Yes, Consolidated Yukeno.

A Yes, I promoted that myself.

Q Have you been associated in any of these ventures with Mr. Kaftell?

A The odd one, yes.

Q The odd one?

A Yes.

Q He is also a promoter? Is that right?

A I think so.

Q Are you associated with him in any venture now?

A No.

Q What was the last one?

A The last one was Silanco and Cobalt Chemical.

Q He is also interested in that Cobalt area?

A That is right -- and the Cobalt Lode.

Those were the three in which I was associated with him.

Q Just before we leave the Cobalt point; the revival in Cobalt has been made possible by -- what?

By a bigger demand for Cobalt, and the higher prices?

Is that correct?

A Partially correct.

Q What is the rest of the explanation?

A The revival depended on higher prices of cobalt as a producer.

Q Yes, I mentioned that.

A In view of the fact that we built a smelter, the cobalt industry has been in the hands of a cartel at all times.

Q An international cartel?

A That is true. In view of the fact that we built a smelter, we got to the stage where the smelter was a reality, and it automatically brought up the price of cobalt. We had competition then for the first time in the history of the camp.

Q Well, you mean competition -- with whom?

A With other people bidding for cobalt and silver under different circumstances than they ever did before.

At one time we had no sales for it.

The only smelter we had in Canada did not buy our cobalt, only when they felt like it. There was no other outlet, outside of one very little smelter, which was in Cincinnati, Ohio -- the

Shepherd Chemical. That was the only outlet they had.

For that reason they could set any price they wanted, or they just did not have to buy, if they did not want it.

That is what gave me the idea of creating a smelter where we would have an outlet for our products.

Q And the by-products as well?

A Yes.

Q Where is the market to-day for cobalt?

A Oh, we have only one market; the government.

Q The Canadian government or the United States government?

A The Canadian government.

And we cannot sell any place else. If we could sell it elsewhere, we could get \$40.00 a pound for it.

BY THE CHAIRMAN:

Q You said there was an embargo on cobalt?

A Yes. And in the past year there has been pressure put on the price of cobalt and they practically doubled it.

BY MR. JOLLIFFE:

Q What does the embargo mean? Does that mean that the United States get their cobalt through the channel of the Canadian government?

A That I do not know.

Q You do not know?

A No. The Canadian government say they need all the cobalt here, and for that reason they put on the embargo.

Q We had a contract with the American government which we could not fulfill on account of the embargo.

Q Cobalt is a war material?

A Cobalt is the most vital metal known to-day.

Q More vital than uranium?

A Yes. Cobalt has more magnetic power than uranium.

Q What is the significance of that?

A Without cobalt, you could not have jet propulsion. Without cobalt, you would not have the atomic bomb. You have to use cobalt in the atomic bomb.

Q Cobalt has 325 times the magnetic power of any other metal. It is on top of the list, as far as

strategic metals are concerned, with the supply available.

Q What companies are in production of cobalt, Mr. Cadesky?

A The companies I mentioned to-day, and the Silver Miller.

BY THE CHAIRMAN:

Q What is that again?

A The companies I mentioned to-day, the Cobalt Lode, Silanco -- there will be two more in production. There is another coming in, the Harrison Hubbard, and there are several others developing.

The Silver Miller is in production.

BY MR. JOLLIFFE:

Q That was one of your promotions?

A No.

Q Whose was that?

A That was done by Mr. Miller. I think Mr. Kaftell had something to do with that promotion. It is doing pretty well. It is paying about forty cents a share to-day.

I think cobalt is very much alive. There is a lot of work going on.

The only problems are housing and labour. If we had housing, we could probably get the labour. They have imported about 40 D.P's which helps out a bit. They tried to import more, but they did not have the housing.

We could put to work right now, 100 more men if we could get them. We are going to need at least another 100 or 150 men at our Penn Cobalt, but we have no houses for them.

Q There are no houses for them?

A No. We will have to build accommodations for them, bunk houses, and so forth. That is all.

Q Incidentally, Mr. Cadesky, we did want to hear from Mr. Kaftell. We gather he is out of town. Have you any idea when he will be back, or where he is?

A I have not seen Mr. Kaftell for quite a while.

Q What do you mean by "quite a while"?

A I would say a few months.

Q Two months?

A A few months. I understand he is out west in the oil business, and doing very well, I think.

Q Have you interested yourself in the oil business at all?

A No, I have no knowledge of oil, and I keep away from it. I would rather stick to something I know something about.

Q And that is base metals and gold?

A I have shelved the gold for the time being.

Q You went from the fur business into the brokerage business? Is that right?

A That is true. No, I did not. I went in as a salesman originally, in 1934, but I was only in the business for about three or four months, when I went into business for myself.

The first man who broke me into the business was "Charlie" Rea -- "Ted" Rea. I knew him up in the north country, and was interested in a situation in which he was interested at that time, and that is how I got into the business.

Q You mean you worked for him?

A At that time -- in 1934 -- yes. He was the first man I ever worked for in my life.

Q But not for very long?

A I could see this business ahead of me, and I thought I would go into business for myself.

Q Were you born in Canada?

A No.

Q But you are a Canadian citizen?

A Yes, I have been here all my life.

Q I gather you came from Mr. Grummett's riding, and now you live in my riding?

A That is right. I live in two ridings.

Q How do you know that?

A I live in Mr. Scott's riding, and I live in your riding, Mr. Jolliffe.

BY THE CHAIRMAN:

Q In Peterborough?

A Yes, I have a farm there.

BY MR. JOLLIFFE:

Q Amongst many of the statements which have been made about this business, Mr. Cadesky, we have heard some statements attributing a lot of the trouble and many of the complaints to the Americans in the business, as broker-dealers or as salesmen; what have you to say about that?

A Well, you have to blame it on somebody. That is about the way I would put it.

Q I am not associating myself with that explanation. I was wondering if you thought there was anything in it?

A I have not found any evidence of it. I have not noticed anything different between the Canadians and the Americans.

Q Is it not true that in the years before the war, when you were in the business, there was not as much solicitation of American customers, as since the war?

A I agree with that. I do not think you heard so much about them. Every now and again they give you a "blast" over there, but that has to come out every once in a while. They come out and make an issue out of something, and this time it was the securities business. They have done that over the last twenty-five years. This is not the first time.

Q In connection with the securities business?

A Sure. This is not the first time.

Q In the 1930's, when you were in the business, there were many complaints going on inside Ontario about the activities of certain salesmen. I think that during those days many of them were disciplined by the Securities Commission at that time, but the complaints we hear lately seem to relate very little to what goes on in Ontario, and very largely to what goes on outside of Ontario.

A Do you not think there is a propaganda campaign and that is the reason for it?

A Well, enlarge on that. Why would there be a propaganda campaign?

A All you have to do is to read some of the literature over there, and if that is not high-pressure literature, I do not know what it is.

BY THE CHAIRMAN:

Q It has been shown to be highly inaccurate; much more inaccurate than some of the brokers' literature sent from here.

A That is what I think.

BY MR. JOLLIFFE:

Q What about the article in the Financial Post? Would you say that was propaganda?

A I have not noticed it.

Q Mr. Downer read one of them. I do not know whether it was made an exhibit or not.

For your information, it was a front-page editorial in the Financial Post, which is a Canadian publication, and the general theme of it was expressed, I think, by a heading which said something to the effect, that "This dirty business must be cleaned up".

Why would a financial paper, like the Financial Post, say that? It could not be for propaganda purposes.

A I did not say the Financial Post was propaganda, but I do think that some of the statements in the American papers are untrue. If it was a true statement, nobody would object, and would not consider it as propaganda.

I have been with the S.L.C., and it has been invited to come down and prove some of the statements made. They have had an invitation from the Broker-Dealers' Association, and I believe also from the Ontario Securities Commission.

Q We sent them an invitation, too. How do you account for that?

A I was wondering -- why squawk in one way, and then not come down and co-operate.

BY THE CHAIRMAN:

Q There was an editorial in one New York paper which said they should either "come up or shut up".

A I think that is quite true.

Q It was one of their own papers which said it.

A I do not sympathize with that kind of propa-

ganda.

MR. JOLLIFFE: Which paper was that?

THE CHAIRMAN: The Herald-Tribune.

MR. JOLLIFFE: At the time of our invitation?

THE CHAIRMAN: Yes, during the sittings of this Committee. I think I showed it to this Committee.

THE WITNESS: I want to tell you something and I can prove it beyond any doubt. I think it was in 1945, or 1946 -- I am not just sure which -- we went down to Washington on this S.L.C. deal, when they asked us to come down and sit before the Committee.

I brought all the clients I had in my house. I never had one American client. I had files that high (indicating), refusing any business in the United States. Did I get any credit for it? I missed a lot of business.

BY MR. JOLLIFFE:

Q Well, in other words, when you were a

broker, you decided not to solicit business in the United States?

A I said up to 1945 or 1946. I did not say I did not take any from then on. But up to that point, I never took a transaction from any American.

Q I understand.

A I felt I was trying to co-operate and play ball. Did they come back to me, and say, "Here, this thing is done wrong; you correct it"? Did they give me a chance to correct something which was wrong? No, they ignored me, and they ignored my lawyer, too. Did they come down and help me keep within bounds, on a straight line?

Q The question is, down to 1945, why did you decide not to solicit American business?

A Up to that point, I did my own selling. It was personal contacts. I did not employ salesmen. I did my own selling, and I was able to finance personally all the issues in which I was interested. I did it all myself. I had a big enough clientele over a period of time, which enabled me to do so.

Q Then you did branch out?

A As I took on more issues, I had to raise more money, and as my business was expanding, I had to expand with it.

Q And I suppose that at the present time you are not concerned about whether a broker-dealer has an option agreement with one of your companies? You are not concerned whether he gets the money from the United States, or Canada, or some other place.

A I make a deal with the broker. The broker is not going to stand for me just telling him how he is going to get the money. I cannot dictate to a broker how he will get the money. I cannot run his business for him.

Q No, not unless you agreed that it was to be done in a certain way.

A When a broker is licensed with the Commission, I assume he is a broker in good standing, and I assume that broker is going to conduct his business according to the rules and regulations of the Ontario Securities Commission. I expect that of him. I cannot question the broker in good standing, as to how he will conduct his business.

Q Have you heard there is some solicitation going on now, or has been, from Toronto to Switzerland?

A No, I have not.

Q You have not heard about that?

A No. I do not believe that myself. I know

the odd one has tried, but without any success. I do not think they have been successful.

Q You do not think they have been successful?

A No.

Q You realize Switzerland has a different currency system than some of the other European countries?

A Yes. Switzerland has a lot of good currency there, and if the boys had any way of going and getting it, they probably would.

Q I do not know whether you have seen this Exhibit, Mr. Cadesky (indicating) -- this Bulletin published by the St. Louis Better Business Bureau. Have you ever seen it?

A I have seen lots of those things. I do not even bother reading them, to tell you the truth. I have had stacks of those things. I do not even put them in the waste basket. I use other places for them.

MR. HOUCK: Up on the farm, eh?

BY MR. JOLLIFFE:

Q What is your reason for that? Do you regard that as pure propaganda?

A I do not think I can regard that as anything else but.

Q You see the curious part of it is, Mr. Cadesky, that this paper refers to certain Toronto broker-dealers and their issues, and publishes a cut showing some of their literature, and since the early part of this year, a lot of these people have lost their licenses, so apparently it was not wrong about all of them.

A I feel sorry for the people who lose their licenses.

Q You think they are the only people who suffer as a result of their activities?

A I don't know of anybody else who has suffered. I know people who are still reading that stuff, and still buying stocks, because they pay no attention to it.

Q You think the Securities Commission had pretty good reasons for cancelling these licenses?

A Let the Securities Commission speak for itself.

Q You said earlier that the Securities Commission was doing a good job.

THE CHAIRMAN: How does he know the Securities

Commission is right or wrong, in something he has never read.

BY MR. JOLLIFFE:

Q You do read the published decisions in the Bulletin?

A Someti es; not very often. I do not get that issue. I am not a broker-dealer, and I do not get that issue.

Q But you have seen some of them?

A Yes.

THE CHAIRMAN: I get a lot of law reports I never read.

THE WITNESS: I will say this much; if I have to criticize the Commission for anything at all, I would criticize it for sending out that Bulletin, because that gives them propaganda for these papers.

BY MR. JOLLIFFE:

Q You think they are supplying ammunition for propaganda in the United States?

A Quite true.

Q You would not want them to hush it up, if they had reason for cancelling a license, or suspending a license?

A I would not want to see anybody else suffer because someone is off the beaten path. That is my reason for saying that. That is only a matter of opinion, but it has always been my opinion that it serves no useful purpose.

Q Would you agree that it at least serves the purpose of informing other securities commissions of what has been done here?

A I think if other securities commissions want information, they are not averse to writing here and asking for it. Why put the wood on the fire? That is where they get their propaganda.

Q It would not burn, unless it is inflammable material.

A It does not take much to start it up, though. That is just an opinion of my own, and is not in the form of a criticism.

MR. JOLLIFFE: I think that is all, Mr. Chairman.

THE CHAIRMAN: Are there any other questions?

(No Response)

Thank you very much, Mr. Cadesky. Your evidence has been very helpful.

THE WITNESS: Thank you very much, gentlemen. I have enjoyed being here, and was very glad to come here.
---The witness retired.

THE CHAIRMAN: What shall we do in the morning?

MR. JOLLIFFE: What is the news from Mr. Bigelow?

THE CHAIRMAN: I spoke to Mr. Bigelow. They are still sitting on their investigation. I believe they are sitting to-day. They think they know who some of the people are, who are at the bottom of these matters, but they are not prepared to say anything about them at the moment.

I will prefer he not come on just at the present time.

MR. VILLENEUVE: I do not think it would be right to bring him now, if there is anything that is not finished.

MR. HOUCK: I think we had some further questions to ask of Mr. Lennox.

MR. JOLLIFFE: Yes. I might say, for the information of the Committee, that I am very anxious that Mr. Kaftell should appear before this Committee. The situation there is quite different from that of Mr. Cadesky. Mr. Kaftell may be away from Toronto

for perfectly good reasons, but earlier in this enquiry he expressed great anxiety to talk to me about the work of this Committee. I declined to do that, as I would much prefer he talk to the Committee, and I want him to appear before the Committee.

If he has something to say, I do not want it to be said to me privately under any arrangement he may make. I want him to tell the whole Committee, and, if necessary, I think we should subpoena him.

THE CHAIRMAN: The information we have is that he is not in town this week.

THE SECRETARY: He is away from his office, and they do not know how long he will be away, and apparently they do not know how to get in touch with him at the moment.

MR. JOLLIFF: That is the answer I expected from his office, but I do not think that is a satisfactory answer. He has a substantial business in this city, and nobody can tell me they do not know when he will be back. I think they could find out, if they wanted to.

THE CHAIRMAN: If it is necessary to subpoena

him, there is no reason why we should not.

MR. JOLLIFFE: I have reason to believe that it probably is necessary to subpoena him. I would not say this, if I did not have a reason for saying so.

The Committee will notice I did not say anything like that about Mr. Cadesky, or any other witness, for that matter.

MR. GRUMMETT: He may be out of the Province.

MR. JOLLIFFE: I think he is, but he has a big business here in Toronto, and there is no reason why he cannot be available.

THE CHAIRMAN: I have heard indirectly that he is out of the province, and his office, apparently, is not very helpful.

THE SECRETARY: He has been written to, as well, inviting him to appear, and the date suggested was the 15th. That letter has just gone out. Whether he will reply to it or not, I do not know.

MR. JOLLIFFE: For the assistance of the secretary, I might say he has one or more associates here through whom the matter might be emphasized.

There is Mr. James F. Lawrie, who is associated with him in a printing company.

I think he could be here, if he wanted to.

THE CHAIRMAN: Then suppose we leave it this way. If we cannot get any satisfactory reply from him, a subpoena will have to issue.

MR. JOLLIFFE: Yes.

MR. HOUCK: And we might hear Mr. Lennox in the morning?

THE CHAIRMAN: Mr. Lennox does not know that yet. I do not know what his engagements are. I will find out.

MR. JOLLIFFE: If we meet to-morrow morning, which is quite satisfactory to me, could we meet at, say, eleven o'clock?

THE CHAIRMAN: I have to leave at twelve o'clock. I have a luncheon engagement downtown, and I have to deliver an address to the Empire Club.

Then there is the Cabinet Meeting to-morrow which I have to take, because the Premier will be away. I will be rather tied up. The Cabinet meeting, however, can take place in the afternoon.

MR. HOUCK: I think eleven o'clock would be all right in the morning.

MR. JOLLIFFE: The Hon. Attorney-General (Mr. Porter) will be pretty busy. It might be better if we met in the afternoon. The fact that we met in the Session last week, and have sat on this Committee the first three days of this week, has presented me with some difficulties on other matters, and I imagine the Chairman is in the same position.

THE CHAIRMAN: Very much so. I do not know how long I will be tied up in the afternoon.

MR. GRUMMETT: If you dispose of the Cabinet meeting in the morning --

THE CHAIRMAN: I think it is called for the afternoon.

MR. JOLLIFFE: Would it suit you any better if we met from 9.30 to 12.00 o'clock?

MR. HOUCK: That is all right with me.

MR. GRUMMETT: That suits me.

MR. JAMES: I will make it agreeable.

MR. GRUMMETT: If we meet to-morrow, I cannot go home until to-morrow night, as our train service up there requires that you book accommodations for at least a week ahead. I like to know when the meetings will be over, so I can go down and book my reservation.

MR. JOLLIFFE: If Mr. Lennox is available, I have personally two or three points I would like to have clarified. I do not think it will take long.

I think it would be a lot better for me, if we met either in the morning, or in the afternoon.

THE CHAIRMAN: I will have difficulty in the afternoon.

MR. JOLLIFFE: Let us meet in the morning then.

MR. HOUCK: It might be better for me. Then I could catch the afternoon train.

THE CHAIRMAN: Can you make it ten o'clock?

MR. JAMES: Any time you say, but not before seven o'clock.

THE CHAIRMAN: We will adjourn this meeting until ten o'clock to-morrow morning.

---The further proceedings of this Committee adjourned until Thursday, October 4th, 1951, at ten o'clock a.m.

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PROCEEDINGS
of the
SELECT COMMITTEE OF THE
ONTARIO LEGISLATIVE ASSEMBLY

APPOINTED TO ENQUIRE INTO AND REPORT
UPON CERTAIN MATTERS CONCERNING THE
ADMINISTRATION OF JUSTICE IN THE PROV-
INCE OF ONTARIO.



Vol. 28.

Thursday, October 4, 1951.

THIRTY-EIGHTH DAY

Toronto, Ontario,
Thursday, October 4th, 1951,
At 10 o'clock a.m.

- - - - -

---The further proceedings of this Committee re-convened
pursuant to adjournment.

---All parties present.

---Same appearances as heretofore noted.

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THE CHAIRMAN: Gentlemen, we will now come to
order. We have Mr. Lennox here. I think some of the
members of the Committee wanted to ask him some further
questions.

MR. JOLLIFFE: Yes, I have one or two points
I want clarified.

OSWALD ELMER LENNOX,

A witness previously heard now recalled, and who,
having been already sworn, continues his testimony
as follows:

BY MR. HOUCK:

Q There was one question about which I was rather perturbed. I think Mr. Villeneuve or Mr. Janes brought in a report from a paper showing where 180 Canadian stocks were barred from listing in the United States. What is the explanation of that?

A As far as I can ascertain, that is linked up with these regulations of the S.E.C., against a broker in the United States filling an order to buy Canadian stock, if the Canadian stock is in the course of primary distribution.

That is the matter to which I referred before, when I referred to Section 5 of the Securities and Exchange Act.

The situation, since I gave evidence formerly, has clarified materially. The American authorities simply took exception to Canadian issues being sold, when they were in primary distribution, when an offering is being made in the United States, and when it is not registered in the United States.

The 181 issues which have been mentioned in the Press cover all issues which have been subject to a cease and desist order, or stop order, and issues which have been, shall I say, "touted" in the United

States, through investment counsel, and so forth, and possibly some issues which have been sponsored through word of mouth, that is, through the "grape-vine", as it were.

As it stands now, that 181 names includes a lot of issues. It goes back over a period of years. I do not think it will adversely affect legitimate Canadian advertising. It does not act as a prohibition against well-seasoned stocks, and well-tested stocks, as it did when it was first enforced.

And so, over all, I am very pleased with the situation, rather than being alarmed about it.

Q It does not cover existing issues?

A No, it goes back to issues qualified earlier than 1946, I believe.

MR. HOUCK: That clears that point up.

MR. JOLLIFFE: Have you finished, Mr. Houck?

MR. HOUCK: Yes.

BY MR. JOLLIFFE:

Q Mr. Lennox, I have another question with regard to our American friends. You will recall, one of the exhibits -- the Better Business Bureau

Bulletin of St. Louis -- we got a list -- perhaps not a complete list -- but, anyhow, a fairly large list of Toronto brokers against whom there were orders or actions pending, in the United States.

You will recall I used that list, or part of it, in examining files of literature.

In looking at the list of broker-dealers who are now registered, I noticed that there are some, who, according to my understanding, have engaged in mailings to the United States. That is to say, they have solicited business in the United States which over there is considered unlawful?

A Yes.

Q And these orders of the United States Post Office Department, based apparently on investigations by the S.E.C., have been made, I suggest to you, against some of the Toronto broker-dealers who solicit business in the United States, but not against all the Toronto dealers who solicit business in the United States.

Do you agree with my suggestion?

A That is quite possible, Mr. Jolliffe. The postal authorities based their orders on fraud. The various states simply issued cease and desist orders.

Q Well, has it been drawn to your attention,

or have you heard any complaint, that certain Toronto broker-dealers seemed to be immune from these United States fraud orders?

THE CHAIRMAN: Have we not had some evidence about that earlier?

THE WITNESS: Yes; I gave some very definite evidence on that matter, earlier in the enquiry. I said I had very little faith in the postal ban, of March, 1942.

BY MR. JOLLIFFE:

Q Yes, I remember you saying that.

A Because I thought the authorities had been acting on information gathered by some official of the S.E.C., and the official of the S.E.C. who was responsible for gathering that information, was acting on local information which was absolutely biased.

That is all in the evidence.

Q Yes, I recall you saying that, but the point is this; you tell me whether or not you agree with this suggestion: that one or more of the Toronto broker-dealers who engaged in very heavy mailings in the United States, never had any orders in the United States issued against him. Do you agree with that?

A Does that not dove-tail in with my evidence--

THE CHAIRMAN: That is what he said before.

MR. JOLLIFFE: He said before it was the Ottawa list, which was only a partial list.

THE CHAIRMAN: No, no. That is a different point entirely. Mr. Lennox is very clear. He said there was some apparent discrimination existing in regard to the orders made in the United States.

THE WITNESS: That is absolutely borne out by an exhibit I put in, a letter I wrote to the Broker-Dealers' Association in November or December, 1950. That was put in here as an exhibit. In that letter I said to the Broker-Dealers' Association that if we got into further difficulties regarding the heavy mailings to the United States, the Commission would make its own investigations to find out who was, in fact, responsible for this trouble, rather than looking at the people who got into trouble.

I think that letter makes it perfectly plain that is what I was thinking of, at that time.

BY MR. JOLLIFFE:

Q That was some time ago. Since then a good

deal of water has gone under the bridges. Would you say it is still true that there appears to be some distinction between Toronto Broker-dealers who solicit in the United States?

A No, I do not think I could say that regarding recent orders, Mr. Jolliffe; although I will say that there is a possibility that some broker-dealers have become notorious, you might say, or who seemed to have the happy faculty of accumulating a lot of orders.

Q And there seem to be some who are strangely immune from orders, are there not?

A Not regarding recent orders. I would say there is no discrimination on recent orders on the same footing as I pointed out there was in March, 1950.

Q Well, would you mind looking at the sixth name in the right-hand corner of the right-hand page (handing document to witness). That (indicating) is a very large house, is it not?

A Yes -- extremely.

Q And that house has solicited heavily in the United States?

A Not to my knowledge.

Q Not to your knowledge?

A No. I do not think they have been soliciting heavily in Ontario.

Q They advertise?

A Oh, yes, they advertise. They advertise extensively. If you pick up this morning's copy of The Northern Miner, you will see a full-page advertisement.

The issues I know of which have been sponsored by this house in recent months, have been listed on the Stock Exchange itself, within one month after they have been qualified.

Q Oh, yes, I realize that.

Let me show you another one (indicating).

A I do not think that person would dare solicit in the United States, because he is an American citizen, and he goes across the border frequently.

Q What about the one at the top of the left-hand column of the right-hand page (indicating); that (indicating) is a pretty big house, is it not?

A No, I do not think so.

Q You do not think so?

A No. I think, Mr. Jolliffe, you may be confusing that with a house with a somewhat similar name. That (indicating) is a member house.

Q Well, what brings this up, apparently -- the

complaint, of course, is that we have a list of those known to have orders against them, and there seem to be some houses which are conspicuous by their absence. However, it may be just accidentally.

A I do not recall. Of course, I do not see all the correspondence which comes into the Commission.

Regarding the first name you mentioned, I do not remember a single complaint coming in from the United States covering literature mailed in the United States.

Q Now, another question we have been concerned about, is that of the middle-man, and you will recall what you told us about that, and we have tried to get some information about it from people in the business, but I am afraid we did not get very far. What we got were promoters, instead of middle-men.

Are you in a position to say any more about the "middle-men" who are really promoters, but do not seem to serve any useful function, and yet appear in certain deals?

A I think I might clarify that whole matter.

Q Well, I wish you would.

A Certainly I never intended to criticize a promoter who is a mine builder.

There are lots of them here.

I use the term "middle-men", solely for the purpose of identifying the person who takes the original under-writing or option from an issuing company, and passes that on to a broker-dealer at an unreasonable mark-up, when that person does not add in any way, shape, or form, to the development of the property in question.

BY THE CHAIRMAN:

Q Did you not have some other name you used?

A Yes.

Q What was it?

A "Taxing companies".

Q "Taxing companies"?

A Yes. That is not my name; it is a name used by the Stock Exchange in trying to agree upon certain definite policies covering the options.

I also explained that this idea of a company taking up stock from the Treasury, rather than from the broker-dealer who can make an offering to the public, stems from a tax problem, and that is where the name "taxing company" arises.

I do not think it does them any good

from a taxation point of view now, but it has been adopted, and it is hard to get rid of it.

I heard the argument from various broker-dealers that if there is a price ceiling set between the price paid to the Treasury and the offering price --

Q What does it matter how the profit is divided?

A My answer to that is, that the price fixed by the Broker-Dealers' Association is a ceiling, and one of the saving graces about the generosity of that price, is that a very small percentage of dealers take full advantage of the ceiling. Most of them sell under the ceiling.

But if there is a middle-man in there, who is getting a spread of five cents or ten cents, then the broker is forced to sell it at the top price. Unless we eliminate that unnecessary profit, we can never expect to get the offering price to the public down to a reasonable basis.

That is why I recommended amending the Act, and the Act was amended accordingly, requiring disclosure of all sub-options, as well as options.

Q You have eliminated the middle-man pretty well, cutting him down to one-half cent a share.

A I have this feeling, that it is completely

under control now.

I would say when it is a question of granting an assignment or an option, there are quite a few promoters which are following this pattern now, and that is, an under-writer or optionee will not grant any sub-option, but employ the services of a broker or broker-dealer as an agent. It is pretty hard, under those circumstances, to control the division of profits.

Q We encountered that case the day before yesterday -- that very point.

A When I was last here I said that was one of my chief concerns.

Q I think you did mention that?

A Yes, and it still is a concern of mine. It still is a problem.

Q I suppose the only way that could be prevented would be to require all under-writings and option agreements to be made between the company and a registered broker-dealer? That is the only way you can get around it, if there is going to be any offering to the public?

A Yes, that is the only way you can get around it.

Q And usually that would not unduly hamper those companies, because if a promoter wanted to do a little

under-writing, the company could make an agreement with him first, and he could take down his stock, and put whatever cash in, he was able to, and then subsequently the issue could be qualified with you, with an agreement between the company and a broker-dealer.

A The way the Act stands now, the Commission could not say that we would not accept under-writings from the companies, or persons who are not registered, because that transaction is absolutely exempt under the provisions of the Act, the transaction between an issuing company and an under-writer.

Q Yes, but where there is to be an offering to the public, surely you can -- and you do already -- you do not qualify an issue unless it meets certain requirements laid down by the Commission?

A Yes, but our requirements cannot be inconsistent with the purpose and intent of the Act we are administering.

Q And is inconsistent about it?

A It strikes me as inconsistent when the Act recognizes an under-writer who is not a registrant, and the Commission says, "We will not accept any issue, unless it is with a registrant."

Q I am not suggesting you should not suggest any issue; all I suggest is that it is open to you

where there is a public offering by a broker-dealer with an agreement in respect to the shares to be taken down from the Treasury to see that it should be direct between the issuing company and the registered broker-dealer? Surely you can do that?

A I am afraid I do not agree with you. It must go through the hands of a broker or a broker-dealer to be made a public offering.

When the Act says that a transaction between an issuing company and an under-writer, or between under-writers -- is exempt from the provisions of the Act --

Q That transaction may be exempt, but transactions by which shares are to be offered to the public are not exempt. That is where you lay down certain requirements, as you do.

A You are stressing the point when an offering is made to the public. All the filings are for the purpose of making a public offering.

Q That is my point; you are not interested in the picture, unless there is to be a public offering. If there is to be a public offering, surely you can require that the agreement be directed between the company and the broker-dealer who is registered?

Surely there is nothing inconsistent in that.

A Then what happens if the shares get out in the hands of the under-writer? Then he owns them. Then they come in and qualify the transaction with the Commission for the purpose of making a public offering. We would have to say then, "We cannot deal with those shares you have already under-written; we are only dealing in respect to the residue which are not subject to under-writing or option."

Q Do you not have that situation now, and is that under-writer not usually a promoter who is interested in the success of the public offering?

A No, there are more cases where the under-writer is a taxation company.

Q A taxation company acting on whose behalf?

A Probably there is some link-up between the taxation company and the promoter, but it is not disclosed.

Q Perhaps it is not disclosed, but the taxation company usually does not emerge out of thin air; it comes into existence to serve someone's interest.

A As I said, it came into existence years ago, from a taxation point of view.

Q To serve some interest?

A Yes.

Q That would be the promoter, would it not --

as a rule?

A I suppose so. This is not a new question, Mr. Jolliffe. It has been canvassed.

I find that a lot of these things are accomplished by easy stages. The Stock Exchange has introduced, as one of its policies, a provision that all under-writings or options by a taxation company should be guaranteed. The guarantee, would, of necessity, be by a member of the Stock Exchange; otherwise it would not be enforceable.

The Commission cannot invoke that provision, because if the Commission said that somebody had to give a guarantee to the issuing company, and there was a link-up between the issuing company and the under-writer, and the guarantor, how will you make them enforce the guarantee? They would just sit back, and would not enforce it.

But the Stock Exchange has control over its own members, and if they got a guarantee from one of their members, it is a worth-while guarantee.

But, on the other hand, if people are anticipating listing on the Stock Exchange, they will realize that the existence of a taxation company in the picture may cause them embarrassment later on.

That is a step in the right direction, in

dealing with this problem.

Q You see, we understood you to say previously that you have eliminated unjustifiable profit by the middle-man who served no useful function?

A That is right.

Q Secondly, that the taxation company no longer serves that purpose that it did, because of some change in the tax law?

A Yes.

Q But the question which still remains unsolved, I think, as far as I am concerned, is why does the middle-man still appear?

A Well, I think these taxation companies or middle-men are often in a sense bookkeepers for different interests. When the shares are released from escrow, they see that they are divided according to agreement.

BY THE CHAIRMAN:

Q As far as you see it at the present time, with the restrictions you have placed on the middle-men, is there anything you see about that situation which does any harm?

If they have a middle-man, under the conditions you have laid down, does it do any harm? Does that

affect the public at all?

A Only when a so-called "middle-man" or "taxing company" employs the services of a broker or dealer as an agent. I do not think that is so very serious.

BY MR. JOLLIFFE:

Q Does that not place the broker-dealer in an anomalous position? In one sense he is offering the shares to the public as a principal, and in another sense he is simply acting as an agent for another principal, who is not a registered broker-dealer?

A No, I think he is acting as an agent. It might appeal to some broker-dealers in this way; that they know just exactly where they are at. They know they will have the stipulated commission, and they are satisfied with that. It appeals to them as being safer than going into a sub-option agreement.

Q But it is a little anomalous, is it not?

A I do not see why it is, Mr. Jolliffe. The best form of financing of all, would be that a company did not grant any option or under-writing at all, but employed an agent to sell it.

Q I do not know whether it would be the best. It might be. I do not know.

A I think it is more or less ideal, and I think it is consistent with some of the proposals you placed before me in a previous hearing, that if the company is successful, then the capital stock is theirs to profit by.

BY THE CHAIRMAN:

Q But not tied up with an option at a fixed price?

A No.

BY MR. JOLLIFFE:

Q There is another species which you may have dealt with, but I do not recall it. That is, the sub-broker-dealer.

A Oh, well, the sub-broker-dealer -- there are three of them, are there not?

Q Yes, there are three of them.

A Yes. They are people who are in outside towns, and do not devote their full time to the business. Usually I think you will find they are insurance agents.

Q Mr. McTague, I think, mentioned "retired bank managers"?

A That is quite possible; we have a lot of

these in the civil service, too, I believe.

Q Are they recognized in the Act? I do not recall.

A These sub-broker-dealers? They must be, yes. On Page 566, you will find:

"(s) 'Sub-broker-dealer' means an individual who, being retired from active business or as incidental to his principal occupation and as correspondent of any investment dealers or broker-dealers or both, trades in securities for a part of his time in the capacity of an agent or principal."

Q I see. All right. That clears that up.

Now if no other member of the Committee has a question to ask you, I might say that we had a witness before us on Monday, a Mr. Sutton, representing an organization, the name of which I fail to recall -- the Stockholders' Union -- or something like that.

He made a number of statements about securities legislation in general, and our legislation in particular.

One particular allegation he made, with which I certainly cannot agree, and upon which I would like your comment, was that the shareholders have lost many, many millions of dollars as a result of what he called

"pulling the plug", and he mentioned cancellations and suspensions by the Securities Commission during the course of primary distributions, and he attributed the very low market value of a great many shares to-day, as being due to the fact that the Securities Commission intervened while the stock was being offered to the public, and ruined its chances of success.

He went as far, I think, as to say that invariably this meant the end of the issue -- that it was finished.

I think in all fairness, you should be given an opportunity to comment on that assertion, which I may say I think impossible, and which I, myself, think was a bad proposition..

A I think the best comment I could make would be to send for Mr. Sutton's files from the Commission.

Q It would be an interesting file.

A I have not bothered to look at it, but I understand it is rather interesting. Perhaps not as interesting as his evidence, but still interesting.

Q Was he ever in trouble with the Commission?

A I have not checked, but that is my understanding.

MR. JAMES: He admitted he had been.

BY MR. JOLLIFFE:

Q He said that things had got to a point where it was no longer profitable to be a broker on account of the restrictions, and he had given up his license a few years back.

(Page 3924 follows)

A. I do not know. I have been accused of being too easy going, and I have also been accused of being too tough. I try to keep a happy balance.

Q. On this particular point, his assertion in regard to dealings in stock, that cancellations and suspensions have ruined a stock which otherwise would be more valuable; what do you say about that?

A. I will repeat the same evidence I gave before. The biggest mistake I made was when I took over the Chairmanship of the Committee, that I was influenced to some degree along this line. I thought if I cancelled a broker's registration, it adversely affected the issuing company. I think that is the worse mistake I ever made, because if the issuing company is going to employ the services of a broker or dealer who is not conducting himself properly, the chips must fall where they may.

If that had been the policy of the Commission throughout this past twenty-two years, that is, during its twenty-two years existence, I do not think we would have the difficulty we have now. That is my idea.

You must punish fraud or misrepresentation, or whatever it may be, and if the issuing company has any merit, it will survive.

Q. Is it not a fact that in some of these cases

where you cancelled or suspended, other broker-dealers have taken over the issue and gone ahead with it?

A. Oh, definitely.

Q. That was my understanding. Mr. Sutton's story is quite different.

A. I can give you cases where they have been revived successfully.

BY MR. GRUMMETT:

Q. That is, a company which has merit, has nothing to fear from the cancellation of a broker's license? Its own merits will bring it up, in the hands of another person?

A. Definitely. I can recall a cancellation which took place in February or March, and now the issue is listed, and doing very well.

Another broker -- I can give you cases, if it is necessary -- took over an issue immediately, and outside of a little temporary embarrassment, it did not affect the company at all.

MR. JOLLIFFE: I think that covers the point.

MR. GRUMMETT: Yes.

MR. JAMES: We have been sitting quite a while, Mr. Chairman, and there has been a lot of evidence come out here.

THE CHAIRMAN: Quite so.

BY MR. JANES:

Q. In your connection with these different companies, and with brokers and the S.E.C., have you noticed any difference in their feelings toward the Commission?

We have been pretty well reported in the newspapers, and I think the public has the right to all the evidence given here, and I was wondering if there was any reaction to it.

A. I will deal with the public first. I find that the communications from the public are more constructive; they are assisting the Commission, rather than just attempting to get their money back. I find that throughout the United States, Canada, and Ontario.

As far as the S.E.C. goes, I found the situation has vastly improved. All my dealings with the S.E.C. now are on a very high plane, and a constructive plane.

I do not want to go into too many details.

I made a trip to the West, and including our province, there were six provinces represented. The Western provinces were represented, and New Brunswick was represented, and the discussions there were with an entirely different trend than they were three years ago. I think the Western provinces give

Ontario credit for constructive policies. They are adopting our policies, that is, policies which Ontario has introduced, as a matter of course, and we are already planning a conference in Toronto, if possible, at the end of November.

All the way through, I think this has assisted the Commission in its administration, with possibly one exception, such as the evidence given by Mr. Sutton, the other day, which seems to give courage to certain people to be of very little assistance to the Commission.

He gave evidence on Monday, and on Tuesday the very first thing when I got to the office, I received a telephone call from a person who was evidently intent on insulting me, after listening to Mr. Sutton's evidence.

Finally he said, "If you feel that way about it, Mr. Lennox, all right". I said, "That is just the way I feel about it, because I will not be subjected to threats or innuendoes in the administration of my office".

I meant that the type of evidence given by Mr. Sutton does harm. However, the rest of it, I think has done a lot of good in this province.

BY MR. JOLLIFFE:

Q. Would you mind telling us, what was the meeting in the West?

THE CHAIRMAN: This was a recent meeting of a few weeks ago, was it not?

THE WITNESS: Yes. There were several matters on the agenda and passed.

I think the discussions more or less followed this line; that the Western provinces were anxious that we would agree upon a policy whereby an issue would first be qualified in the province where it was situated, before it was qualified in any other province.

There is, naturally, a great deal to be said in favour of that.

BY MR. GRUMMETT:

Q. That is, where the mine is situated?

A. Yes.

My approach to that problem is this; if we were going to adopt that policy, it first would be necessary to have other uniform provisions. I mean, if we are going to have registration and qualification along those lines, we should have a uniform policy with respect to vendors' licenses, and a uniform policy with respect to release from escrow, and, above all, to

facilitate that whole matter, why should we not have a uniform prospectus? That is the basis of filing, and it facilitates filing right across the Dominion.

I pointed out to the various Commissioners that Ontario had taken the first step toward uniformity by adopting a prospectus which would meet the requirements of the Dominion Companies' Act, as each province is obliged to prepare a prospectus ~~regardless~~ of what they were going to do with it, and there was no reason why we should not all have the same form of prospectus to facilitate filing in all provinces, and that the same policy regarding vendors' shares and so forth, so that securities would be offered on a uniform basis throughout the Dominion of Canada. With that, I thought that Ontario could very well fall in line about the question of first qualifying in the province where the property is located.

Following that suggestion on my part, it seemed to be accepted fairly well in principle by the others; they then suggested a further meeting in the central part of Canada, where we could get a better representation from the East. That is what we are working on now.

If we have that, matters of discipline and other matters are only secondary. That is the primary

purpose of facilitating a Dominion-wide securities administration.

BY MR..HOUCK:

Q. Mr. Lennox, we had Mr. Cadesky before the Committee yesterday, talking about the bulletins you issue. If I recall it correctly, he thought they were doing more harm than the good they accomplished.

THE CHAIRMAN: I do not know that he quite said that. He was referring to the publication of the cancellations of licenses. I think that aspect of it was under discussion, and it was his personal view that the publication making that information generally public, did not serve any great purpose.

Was that more or less your recollection of it, Mr. Houck? That is what he was talking about.

THE WITNESS: My opinion is that has done more to fortify the administration in the province than probably any other single item. We have been criticized by other provinces. Ontario is the only province or state, I think, possibly, which supplies a complete record of everything we do.

Another province may criticize the Ontario administration, but we are not in a position to criticize them, because we know nothing whatever about them.

When I take out West, I thought they apparently have their problems, too, although they do not publish them.

My idea is that has been of a great deal of assistance in the administration; it has prevented a lot of people who are obviously not entitled to registration, from applying, because they fear the adverse publicity, they would receive if the reasons for their rejection were published.

BY THE CHAIRMAN:

Q. Do not the other provinces, or any of them, have similar bulletins?

A. I do not know; not all do.

BY MR. JOLLIFTE:

Q. The S.E.C. publishes a bulletin?

A. Yes, but if you look at the Securities Digest -- I remember you had a copy -- and see the S.E.C. releases in there, they do not give anything like the information we give, regarding underwritings and options, in our book.

BY MR. JANES:

Q. It must be a wonderful help to other securities commissions to have this record of your Commission, when somebody comes in and asks for a

license?

They can check up and if we did put that out, they would have the same opportunity.

A. Yes, I think it is a great help. I think it has been quite a factor in better relationships with the S.E.C.

BY THE CHAIRMAN:

Q. Does it not also serve this purpose; that any body, such as a securities commission, dealing with a great many people in the financial world, in one form or another, may have persons who are always suspecting that somebody has got something he has not got, and there is prejudice amongst some public officials, and the more you get it into the open, and let the people know what your decisions are, and your reasons for them, surely, on the face of it, it must be all to the good?

If people want to go into this business and do not want to face the music, they should go someplace else, perhaps out on a farm, would be a good place for some of them, although they do not "go for that", because they have not the physical energy.

MR. JAMES: And the farmers are all honest.

THE WITNESS: I think the bulletins, coupled with the fact that there is a definite possibility of

bringing all these before the Commission, eliminates any suggestion of these "hole in the wall" actions.

BY MR. JOLLIFFE:

Q. May we come back for a moment to something which interested us previously?

Your system, and the Act itself, and the administration of the Act, and the regulations under which you set forth the requirements for filing, and so on, bring out into the open, if I may use that expression, any information which may be available about the company and its property, and it brings out into the open, the man who makes ^{the} offerings to the public, the broker-dealer. He is licensed, but he would not be licensed if you had not made a thorough investigation of his integrity, and apparently the only person who is not brought out into the open, is the underwriter, or, perhaps, the promoter?

It may be necessary for his name to be disclosed, if he is interested.

A. If he is a promoter, he would sign the prospectus.

Q. Yes; it has to be disclosed and the underwriter has to sign?

A. Yes.

Q. Do you make any investigation as to the identity

of that person?

A. Well, a promoter is usually pretty well known to us. We have records of people --

Q. Who are not licensed?

A. Yes. And I do not think we investigate an underwriter, unless we know something against him.

Q. You remember in the Young case where you cancelled a broker-dealer's license?

A. Yes.

Q. That was a fellow by the name of "Tom" Brown, who was a middleman or an underwriter, in between?

A. Yes.

Q. And did the Commission know anything about "Tom" Brown, when that issue was accepted for filing?

A. That was probably accepted before my time, but I doubt whether they did.

Q. It was this "Tom" Brown in between there?

A. Yes.

Q. And eventually, in the decision, you ultimately found he performed no useful function whatever?

A. That is right.

Q. Is there not a bit of a gap there? Does it not happen that you have an underwriter appearing in the prospectus, but on the documents filed with your Commission, are unknown people who may or may not be

bona fides principals?

A. I am inclined to agree with you, there is a sort of a gap there, but it is more or less a question of not being too bureaucratic.

BY THE CHAIRMAN:

Q. Does it really matter, as long as the main elements in the transaction are fully disclosed? After all, the promoter does not deal directly with the public. This is an underwriter.

A. We know the promoters.

BY MR. JOLLIFFE:

Q. It seems to me, Mr. Chairman, that in some cases, it might not matter at all; on the other hand, if the underwriter, an unknown person, were used to conceal the identity of the real underwriter, or the real promoter, from the Commission, or from the public, then it might matter.

THE CHAIRMAN: It might, yes.

THE WITNESS: I can give you cases, Mr. Jolliffe, where it was certainly abused.

For instance, we were investigating one issuing company, and we wanted to question the underwriter, and we found he was a university student, who

was taking a trip to Europe, or somewhere, and he was not available.

We definitely took the position that that was irregular; that they should not accept a person as an underwriter, knowing he was going to leave the country within a matter of months.

We have had considerable trouble along those lines.

THE CHAIRMAN: I can see that with respect to an underwriter, because he has a definite legal obligation to pick up so much stock at a certain price, but if he is a man on the Street, that has no value at all.

MR. JOLLIFFE: He also certifies that certain statements are true.

THE CHAIRMAN: Yes.

MR. JOLLIFFE: Mr. Cox told us he investigated a case where there were some convictions, a case where there was a "phoney" underwriting agreement, and "phoney" signatures.

THE WITNESS: That may be before my time. I do not remember it particularly.

The last cancellation covers an underwriter who was also a broker, signing a false statement. That was the last cancellation -- within the last month.

BY MR. JOLLIFFE:

Q. I understand that since you appeared before us, there has been one suspension and one cancellation; is that right? Here (indicating) is the list (handing document to witness).

A. Yes, I think there would be more than that.

Q. I mean apart from the Burgess case?

A. There were more than that, on the grounds of lack of working capital.

Q. Oh yes, I understand.

A. I think I have cancelled two; I am not sure.

Q. You think you have cancelled two?

A. Yes, out-right. Then there were suspensions on account of failure to meet the capital requirements.

MR. JOLLIFFE: That is all, thank you.

THE CHAIRMAN: Shall we recess for five minutes.

---Whereupon a short recess was had.

---Upon resuming.

BY MR. GRUMMETT:

Q. Mr. Lennox, I am not just satisfied with the position of the vendor in a transaction.

We had some evidence from Mr. Cadesky yesterday as regards the promotion of a venture by a vendor. I am

rather inclined to think that the vendor is given too much lee-way with his stock.

Take, for instance, a three-million share issue; the vendor can get seven hundred and fifty thousand shares?

A. Yes.

Q. From the very beginning, he is allowed a release of seventy-five thousand shares.

A. Correct, except in an oil venture, where there is no release.

Q. If the issue is taken on the market and goes to 50 cents, this seventy-five thousand shares will net the vendor a considerable sum of money?

A. Yes, if he gets the market for them, they would.

Q. Do you not think it would be better to limit the vendor to receiving an amount approximately the same as he himself has invested in the stock, in the first place?

As you know, a vendor is quite often the prospector, or he may be the promoter; he may have invested a certain amount of money in that venture before he hands it over to a broker-dealer to handle.

A. Well, it is a difficult question, Mr. Grummett. You are always confronted with the idea of retarding

a venture. We are bound to look at the prospector, and consider his rights. Unfortunately, the other people share in those rights.

The fact that they did not get value of their shares -- I think I have mentioned this before -- this thing about "sweetening the deal" -- I would say, most of these promotional houses which undertake to make public offering in a speculative issue get some part of the vendor shares at a very low price. This is a question of preserving the even balance between regulating the brokerage industry, and at the same time not discouraging development.

We are continually with that phase of the situation.

I have a case that is current where there was an extensive air survey. A big company spent over two million dollars in air survey. My reaction -- I am dealing with the thing now -- is they are placing too big a value on the air survey, covering this particular section that is under promotion now. But it is a thing you have to deal with very carefully. That is a step in the right direction.

If a company will come in here and spend vast sums of money in a preliminary survey of our potential resources, they are entitled to fair play. It is a new

question and one which presents a great deal of difficulty, in considering.

Q. I am not so much worried about that type of transaction. The one I am thinking of is where a man goes out into the bush; he finds what he thinks is a good prospect, and a company is organized. He is given a certain number of shares, and he is permitted to dump a considerable number of those shares on the market. There are a great number of small ventures. Do you not think it is an encouragement to a promoter or a vendor to promote a small venture and get rid of the portion you permit him to sell, and then drop the whole project?

A. Oh no, because he is not the only person in the picture. The underwriter or optionee and the broker, who has to spend considerable on advertising, are other factors in the picture.

But there have been very definite steps taken along that line, in regard to your suggestion in regard to retarding the release of vendor stock. That has been cut down three-fold in recent years, and the consensus of opinion now is to cut it down further.

Q. That is what I was getting at. I was wondering if this could not be cut down further. I know that previously the vendor was allowed to dispose of all

his holdings, but now he is limited to ten percent; could not that be worked out by some formula where it would be limited to the same amount in reference to the investment he has in the transaction, or in the project -- the amount he has invested to put it on the market.

A. As I said before, we have to take these things in easy stages. I have in the last year and a half cut the vendors' allowance down by one-quarter of a million shares in a standard company. You pretty well have to take these things in easy stages, and the next stage is to further restrict the release of vendors' shares. That is definite. There is a definite opinion on that now.

BY MR. JAMES:

Q. Did you say you had cut it by one-quarter of a million, or to one-quarter of a million?

MR. GRUMMETT: By one-quarter of a million. In a three-million share company, it is down to seven hundred and fifty thousand shares now.

THE WITNESS: Yes.

BY MR. GRUMMETT:

Q. I think that is a good trend. If you can

keep the vendor from dumping too much on the market, you are doing something to help the company.

A. You see, Mr. Grummett, we recognize the difference between a vendor in a mining proposition, whom we hope is a prospector, and a vendor in an oil proposition. They are entirely different. A vendor in an oil proposition is a person who goes out and gets an oil lease. He does not do any prospecting, nor anything else.

That is why there is no free vendor stock in oil promotion.

Q. It is released as the sale of stock continues?

A. Yes.

I just dealt with a case yesterday where the company is fully financed, and there are still four hundred thousand shares in escrow, so they wanted to know if they had to go out and drill another well to get the four hundred thousand shares out.

Now that it is fully financed, they are trying to protect the financing of the company.

MR. GRUMMETT: That is all I have to ask, thank you.

THE CHAIRMAN: Are there any further questions?
(No response).

Thank you very much, Mr. Lennox.

THE WITNESS: Thank you, gentlemen. It was shorter than I anticipated.

---The witness retired.

THE CHAIRMAN: Gentlemen, it is a quarter to twelve. Is there anything further?

THE SECRETARY: There is a letter from Mr. Nash, which just came in. That was referred to Mr. Lennox, I was wondering if it could be treated like the other correspondence.

THE CHAIRMAN: Is this an individual case?

THE SECRETARY: Yes.

THE CHAIRMAN: I think these individual cases should be looked into by the Commission, first.

THE SECRETARY: It has been referred to the Commission.

THE CHAIRMAN: Have they reported on this yet?

THE SECRETARY: No.

THE CHAIRMAN: It is dated September 25th, and is a comparatively recent letter.

THE SECRETARY: Yes, I understand from Mr. Lennox --

THE CHAIRMAN: I do not know that we are

concerned with individual cases, which are really the business of the Securities Commission.

EXHIBIT NO. 155: Letter from
Nash, September 25th, 1951,

MR. HOUCK: Has Mr. Jolliffe any report on Mr. Kaftell?

MR. JOLLIFFE: Yes, that he has been staying at the Paliser Hotel, in Calgary.

THE CHAIRMAN: So apparently he is out of town?

MR. JOLLIFFE: I would assume that he could be reached at the Paliser Hotel. He has been back and forth a good many times.

MR. HOUCK: Will we meet on October 15th, or shall we sing "God be with us till we meet again"?

THE CHAIRMAN: I think we might adjourn until October 15th. According to the newspapers, there are certain things which might intervene, but I am not authorized to say, one way or the other, what will happen in the meantime. I do not think it is fair to ask me to.

MR. HOUCK: I thought, seeing you are presiding at the Cabinet meeting, to-day, maybe you might have some

official statement to make..

THE CHAIRMAN: I have not even looked at the agenda yet.

We will see what we shall see.

MR. GRUMETT: Should we, by any chance, meet on the 15th, how many days do you figure we will be sitting?

THE CHAIRMAN: I think our practice has been to sit for the four days, to give us a little chance to do some work. I think that is the proper way to leave matters.

MR. HOUCK: I move we adjourn until October 15th.

MR. DOWNER: I second the motion.

Motion agreed to.

---Whereupon at 11.50 o'clock a.m., the further proceedings of this Committee adjourned until Monday, October 15th, 1951, at 10.30 o'clock, a.m.

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